



*Ministry for the*  
**Environment**  
*Manatū Mō Te Taiao*

# **National Policy Statement for Freshwater Management 2011: Implementation Guide**

# Acknowledgements

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# 1 Introduction

## 1.1 Purpose and focus of guide

This guidance provides local authorities with commentary on the National Policy Statement for Freshwater Management (NPSFM) and provides considerations for local authorities in responding to, and giving effect to, that National Policy Statement (NPS). This guidance does not form part of the NPSFM and does not have statutory weight.

This guidance is focused on the NPSFM only. It is designed to provide background information and commentary on the intent of the NPS, and to assist local authorities in considering how the key messages, concepts and directions should be implemented.

It is acknowledged there are differing circumstances, issues and approaches for regions and districts across New Zealand. These differences relate to both regional freshwater management issues and the local approach to regional plans.

The guidance is to enable local authorities to apply the NPSFM at their local level.

## 1.2 Key messages

The key messages in this guidance are:

- local government is responsible for catchment-based freshwater management
- an objectives and limits-based regime will provide certainty for both economic and environmental outcomes
- a limits-based regime will avoid over-allocation and enable cumulative effects to be better considered and managed
- implementing the NPSFM will take time, will involve new approaches, and will not necessarily be achieved in one step
- the NPSFM alone will not achieve local or national objectives for freshwater management
- regional councils are required to work with iwi and hapū to identify tāngata whenua values and interests in fresh water and reflect these in the management of, and decision-making regarding, fresh water.

## **1.3 National policy statements are Resource Management Act instruments**

The NPSFM is an instrument under the Resource Management Act 1991 (RMA). The NPSFM must be interpreted and given effect to within the context of the RMA.

While the NPSFM gives direction on the outcomes sought, it does not specify how to achieve those outcomes. New approaches are encouraged to achieve the objectives of the NPSFM, but it is up to local authorities and their communities to determine appropriate local objectives and methods.

## **1.4 Broader context – the Fresh Start for Fresh Water programme**

The NPSFM is one of the first set of initiatives to be developed as part of the Government's Fresh Start for Fresh Water programme of water reform, and is an early and necessary component for improving freshwater management in New Zealand. The NPSFM will help to clarify the regulatory framework for the reform package as a whole. The NPSFM alone will not achieve the objectives for freshwater management, and a further work programme has been commissioned to support councils in giving effect to the NPSFM, and to deal with matters outside the scope of the NPSFM.

Information on the Fresh Start for Fresh Water programme is available on the Ministry for the Environment website: <http://www.mfe.govt.nz/issues/water/freshwater/fresh-start-for-fresh-water/index.html>

This guide will be periodically updated as both policy and good practice develop.

## **1.5 Other associated documents and instruments**

A number of national instruments and documents are relevant to the NPSFM. These can be found on the internet and include those summarised below.

### **1.5.1 Relationship with other NPSs**

All NPSs must be considered and given effect to individually. The NPSs are not prioritised over each other, nor are they considered to be in conflict with each other.

The *NPS for Renewable Electricity Generation* (NPSREG) provides for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities. The preamble to the NPSREG notes that: "this national policy statement does not apply to the allocation and prioritisation of freshwater as these are matters for regional councils to address in a catchment or regional context and may be subject to the development of national guidance in the future". The NPSFM preamble identifies electricity generation as one of 11 important national values of fresh water but does not prioritise uses or values. The NPSREG sits

alongside the NPSFM but relates to different subject matter. The NPSREG is available on the Ministry for the Environment website: <http://www.mfe.govt.nz/publications/rma/nps-renewable-electricity-generation-2011/index.html>

The *New Zealand Coastal Policy Statement 2010* (NZCPS 2010) contains policies in relation to water quality in the coastal environment. Freshwater resources within the coastal environment are also covered by the NPSFM. Some of the objectives and policies of the NZCPS 2010 apply to the same waterbodies and subject matter as the NPSFM, and both need to be considered and given effect to. Coordinated implementation of both documents will be required. Two objectives and five policies of the NZCPS 2010 are particularly relevant to the NPSFM. These are listed below and included in Appendix A for easy reference:

- Objective 1: Ecosystems
- Objective 3: Treaty of Waitangi
- Policy 2: Tāngata whenua
- Policy 4: Integrated management
- Policy 21: Enhancement of water quality
- Policy 22: Sedimentation
- Policy 23: Discharge of contaminants.

The interrelationships and overlaps between NZCPS 2010 policies and those in the NPSFM are referred to in the guidance provided in Section 2 of this document. These links require particular consideration at the individual policy level when local authorities give effect to the individual objectives and policies of the NPSFM.

The NZCPS 2010 is available on the Department of Conservation's website: <http://www.doc.govt.nz/conservation/marine-and-coastal/coastal-management/nz-coastal-policy-statement>

## **1.5.2 Relationship with Treaty settlement legislation**

Under the *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010*, the Waikato River Authority's Vision and Strategy has the status of a NPS and prevails over any inconsistent provisions in other NPSs. The Vision and Strategy will have greater impact on Waikato's freshwater management than the NPSFM. This is because the NPSFM, although broadly consistent, is less specific than the Vision and Strategy, which is available on the Authority's website: <http://www.waikatoriver.org/news-and-publications>

Other Treaty settlement legislation may introduce Treaty settlement solutions that involve governance, decision-making arrangements or processes to set objectives for freshwater management. Treaty settlements may also provide a means of giving effect to aspects of the NPSFM.

### 1.5.3 Relationship with Hauraki Gulf Marine Park Act 2000

Under the *Hauraki Gulf Marine Park Act 2000 (HGMPA)*, the provisions of section 55 of the RMA apply as though sections 7 and 8 of the HGMPA were a NPS. Section 7 recognises that the interrelationship between the Hauraki Gulf, its islands and catchments, and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands, are matters of national significance. Section 8 sets out the objectives of the management of the Hauraki Gulf, its islands and catchments. The NPS deemed by the HGMPA overlaps with the NPSFM in the Auckland and Waikato regions. In those regions, councils therefore need to ensure implementation of the NPSFM does not conflict with the HGMPA. The more specific NPSFM will provide direction in implementing sections 7 and 8 of the HGMPA. The HGMPA is available at:

<http://legislation.govt.nz/act/public/2000/0001/latest/DLM52558.html>

### 1.5.4 Relationship with national environmental standards

National environmental standards (NESs) are regulations issued under the RMA. NESs prescribe technical standards, methods or requirements for particular matters. NESs are a specific requirement with the force of a rule and local authorities must enforce them. As NESs establish a prescribed regulatory requirement, they can potentially prescribe some of the means by which local authorities can give effect to and implement a NPS.

The *National Environmental Standard for Sources of Human Drinking Water* is intended to reduce the risk of contaminating drinking water sources, such as rivers and groundwater. This NES will be relevant to regional councils considering how to give effect to the NPSFM because it requires the councils to ensure effects on drinking water sources are considered in regional plans and decisions on resource consents. This NES is available on the Ministry's website: <http://www.mfe.govt.nz/laws/standards/drinking-water-source-standard.html>

In 2008, public consultation was undertaken on a *Proposed National Environmental Standard on Ecological Flows and Water Levels*. Should this proposed NES become regulation, it is likely to be relevant in implementing the NPSFM. The background information available on this proposed NES, including draft guidelines on methods to determine ecological flows and water levels (Ministry for the Environment, 2008),<sup>1</sup> may assist in giving effect to the NPSFM. The draft is available on the Ministry's website:

<http://www.mfe.govt.nz/publications/water/proposed-nes-ecological-flows-water-levels-mar08/index.html>

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<sup>1</sup> Ministry for the Environment. 2008. *Draft Guidelines for the Selection of Methods to Determine Ecological Flows and Water Levels*. Prepared for the Ministry for the Environment by Beca Infrastructure Ltd. Wellington: Ministry for the Environment.



### **1.5.5 Resource Management (Measurement and Reporting of Water Takes) Regulations 2010**

The *Resource Management (Measurement and Reporting of Water Takes) Regulations 2010* require significant water takes to be measured and results reported to the regional council. These regulations will assist councils to implement Objective B3 of the NPSFM, which is to improve and maximise efficient allocation and efficient use of fresh water by providing more accurate information about allocation, use and efficiency gains in specific catchments. The regulations are available on the Ministry's website: [www.mfe.govt.nz/rma/central/measuring-reporting-water-takes.html](http://www.mfe.govt.nz/rma/central/measuring-reporting-water-takes.html)

### **1.5.6 Water conservation orders**

Some catchments have water conservation orders (WCOs), which have provisions relevant to the NPSFM. WCOs are gazetted under the RMA. Existing and new WCOs may help give effect to the NPSFM. For example, a requirement that a waterbody "shall remain in its natural state" provides an 'environmental state' objective for the waterbody, although additional objectives that do not conflict with this objective could be added through the planning process. Any activity that has an impact on the quality or quantity of the waterbody can be assessed against that natural state objective. Some WCOs also set a flow regime, which will contribute to defining a quantity limit.

### **1.5.7 Other national guidance and technical information on freshwater management**

A number of technical, guidance and background reports for freshwater management are available. Of particular relevance are the following reports, which are all available on the Ministry for the Environment's website:

- Ministry for the Environment. 1998. *Flow Guidelines for Instream Values*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2008. *Draft Guidelines for the Selection of Methods to Determine Ecological Flows and Water Levels*. Prepared for the Ministry for the Environment by Beca Infrastructure Ltd. Wellington: Ministry for the Environment.
- Simpson Grierson. 2010. *Case law on limits for freshwater quality and environmental flows*. Prepared for the Ministry for the Environment. Wellington: Simpson Grierson.
- Norton N, Snelder T and Rouse H. 2010. *Technical and scientific considerations when setting measurable objectives and limits for water management*. Prepared for the Ministry for the Environment. Christchurch: National Institute of Water and Atmospheric Research Ltd.

## 1.6 Amending plans to give effect to the NPS

Section 55 of the RMA imposes an obligation on local authorities to “give effect to” the provisions of the NPS in two particular ways:

- local authorities must amend relevant plans and policy statements to include specified objectives and policies
- local authorities are obliged to make all other amendments to the relevant plans and policy statements that are needed to give effect to other provisions of the NPS.

Under section 62 of the RMA, a regional policy statement (RPS) must give effect to a NPS. Under section 67 of the RMA a regional plan must give effect to a NPS. Under section 75 of the RMA, a district plan must give effect to a NPS.

To ensure it is meeting its obligations, a local authority must assess all relevant RMA plans and policy statements. Where those plans and policy statements do not already give effect to this NPS, they must be amended through a RMA Schedule 1 process. The exception is the transitional provisions in Policies A4 and B7, which can be directly inserted into plans if required.

There is no discretion as to whether or not to give effect to the NPSFM; however, there is discretion in how it is given effect to.

Policy E of the NPSFM outlines the timing for implementing the NPSFM.

## 1.7 Relevance to decision-making on consents

All consent authorities must have regard to the NPSFM when considering and/or making decisions on resource consents (section 104(1)(b)(iii)), and have particular regard to it when considering notices of requirement for heritage orders and designations.

“Have regard to” imposes an obligation on decision-makers to give attention and thought to the NPSFM, although the consideration is still specified to be subject to Part II of the Act.

Since 1 July 2011, consent authorities have been required to meet these obligations, whether or not local authorities have made amendments to RPSs and plans to give effect to the NPS. Also, the NPSFM is a matter to have regard to when considering and deciding any application after 1 July 2011, even if the application was lodged before that date.

The NPSFM is not specified to be a mandatory consideration in determining notification of an application under sections 95 to 95G of the RMA, but it may help identify relevant effects to consider in making the determination.

## 1.8 Roles and responsibilities

The majority of the NPSFM policies set expectations on regional councils to manage fresh water in ways that are consistent with the functions of those councils under section 30 of the RMA. A number of the policies provide specific direction about who is to do what; for example, where regional councils are directed to change a regional plan or impose conditions on consents.

Territorial authorities also have a role in implementing the NPSFM, particularly working with regional councils on integrated management, and on RPS provisions that may direct territorial authorities to take certain action through district plans that give effect to RPSs.

Some policies in the NPSFM are about processes and approaches relevant to all local authorities, in particular, integrated management and tāngata whenua involvement.

The format of Section 2.3 of this guidance aims to provide direction where there are specific responses required by either regional councils or territorial authorities.

## **2 Guidance on the National Policy Statement for Freshwater Management**

### **2.1 Preamble to the National Policy Statement**

The preamble within the NPSFM does not include objectives and policies. It can be used as a guide to assist the interpretation of the objectives or policies where necessary to resolve uncertainty. It is primarily intended to act as an introduction to enable the role and operation of the NPS to be understood.

The preamble includes a section on national values of fresh water. This part of the preamble is attached in Appendix B. The Board of Inquiry recommended the NPSFM include a list of national values. The values were derived from the RMA, the proposed NPS, submissions and evidence to the Board. Two groupings of national values are identified, first those providing for the wellbeing and amenity of people and communities, and secondly, those recognising and respecting fresh water's intrinsic values. Intrinsic values of fresh water are stated in the preamble as substantial in themselves and not subordinate to economic values of fresh water for potential use for people and community wellbeing. The national values are not prioritised. At a national level it is not possible to prioritise individual activities and values, given the range of local circumstances and considerations that might apply. It is for regional communities, facilitated by regional councils, to consider values and priorities locally and determine how to respond to those values at a local level in implementing the policies of the NPSFM.

The preamble notes that an independent review of the implementation and effectiveness of the NPSFM will be sought no later than five years after the NPSFM comes into effect. The need to review, change or revoke the NPSFM will be considered following the review. Monitoring data and information will be required to inform this review. A monitoring programme will be developed separate to this guidance. The Fresh Start for Fresh Water programme will be further advanced in five years to provide more context and complementary policy and programmes within which the NPSFM sits. This will enable the review to ensure the NPSFM is fit for purpose within the framework that is in place in five years' time.

## 2.2 Interpretation

The NPSFM lists a series of definitions of terms relevant to the national policy statement and these are repeated below for convenience. Terms used and defined in the RMA have the meaning given in the RMA.

*Efficient allocation includes economic, technical and dynamic efficiency.*

These different aspects of efficiency are outlined further in relation to Policies B2, B3 and B4.

*Environmental flows and/or levels are a type of limit that describes the amount of water in a body of fresh water (except ponds and naturally ephemeral waterbodies) which is required to meet freshwater objectives. Environmental flows for rivers and streams must include an allocation limit and a minimum flow (or other flow/s). Environmental levels for other bodies of fresh water must include an allocation limit and a minimum water level (or other level/s).*

Environmental flows and water levels are the flows and water levels required in a waterbody to provide for a given set of values; and these values are established by setting the freshwater objective. Environmental flows and water levels encompass all environmental matters that are relevant to the objective set for the waterbody. This may include providing for ecological, tāngata whenua, cultural, amenity, recreational, landscape, natural character and other values associated with water.

An environmental flow/level must include both an allocation limit and a minimum flow/level. The allocation limit is the quantum of water that can be extracted, while the minimum flow is the amount of instream flow at which taking must cease, regardless of whether the full allocation has been taken or not. A flow regime does not have to be one figure.

If the limit set for a waterbody includes a water level, then the waterbody will have both an allocation limit and an environmental level. An environmental flow for an aquifer will be an allocation limit, and may (but does not need to) include a water level. Background information on the proposed NES for ecological flows and water levels is a relevant consideration but does not encompass all considerations for environmental flows; for example, recreation values or cultural values are not referred to in the background information relating to ecological flows.

*Freshwater objective describes the intended environmental outcome(s).*

A freshwater objective is the environmental outcome sought for the waterbody. This describes the environmental state required to enable community values and wishes to be achieved. The development of an environmental objective will therefore encompass two steps. First, determining the desired community outcomes; for example, retention of a healthy trout fishery; retention of mauri; ability to swim in the river in summer; ability to use the water for stock watering without treatment; or ability to use the water for municipal water supply with only chlorination. Second, determining what environmental state is needed for those outcomes to be achieved.

In determining community objectives, the list of national values of freshwater set out in the preamble (and in Appendix B) is relevant.

Freshwater objectives can be set at a variety of scales and levels of detail and may be narrative or numeric. Further explanation and examples on freshwater objectives is provided in the discussion of Policies A1 and B1 in section 2.3 of this guidance.

*Limit is the maximum amount of resource use available, which allows a freshwater objective to be met.*

A limit is a specific quantifiable amount. Limits can be set at a range of scales to fit regional circumstances. Limits can cover a range of matters, and will clearly specify the maximum or minimum that relates to that matter (eg, maximum cadmium levels entering a waterbody; minimum water levels). A limit may apply to a water *quality* parameter (the assimilative capacity of waterbodies or cumulative limit below which discharges can be sustainably managed), or a water *quantity* parameter (limits on take). Limits can be specific to a waterbody or part of a waterbody (eg, blocks or sections of a river), or can cover a number of waterbodies with similar characteristics (a default limit). Further explanation of limits is provided in the discussion of Policies A1 and B1 in section 2.3.

*Over-allocation is the situation where the resource:*

*(a) has been allocated to users beyond a limit, or*

*(b) is being used to a point where a freshwater objective is no longer being met.*

*This applies to both water quantity and quality.*

Setting the freshwater objective and limit establishes the level beyond which over-allocation will occur. Over-allocation occurs when either, or both, of the relevant objective and limit are not being met. This is a measure of when cumulative adverse effects start to occur. Further explanation of over-allocation is provided in the discussion of Policies A1, B5 and B6 in section 2.3.

*Outstanding freshwater bodies are those waterbodies with outstanding values, including ecological, landscape, recreational and spiritual values.*

An “outstanding” waterbody is one that is exceptional in some way. It may be exceptional in relation to one particular attribute, but it may also have a number of outstanding attributes. An outstanding value is a high threshold. There are expected to be a small number of outstanding freshwater bodies identified and protected by regional councils across the country. A waterbody that is not nationally significant may be outstanding for local reasons. Communities will determine outstanding freshwater bodies in establishing objectives and limits through the regional plans process.

*Target is a limit that must be met at a defined time in the future. This meaning only applies in the context of over-allocation.*

A target forms part of a staged work programme to work towards the limits that are necessary to achieve the objective.

## **2.3 Objectives and policies**

This section examines each of the objectives and policies in the NPSFM, and outlines possible regional and territorial responses. The objectives and policies are interrelated and should be considered and implemented in an integrated manner.

Each objective and policy in the NPSFM is presented, followed by specific commentary on it, followed by the possible local authority responses.

## A Water quality

### Objective A1

<b>To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the use and development of land, and of discharges of contaminants.</b>	
<p>Achieving the objective of safeguarding the environmental bottom line will require consideration of all sources of potential contaminants (human and natural) holistically, including point source discharges and diffuse discharges. These include contamination from urban storm water, application of fertilisers or pesticides and effluent discharge from stock grazing.</p> <p>Freshwater bodies, and the aquatic communities they support, will be variable across a region for different types of freshwater ecosystems. The level of habitat protection to safeguard life-supporting capacity will also depend on regional circumstances. Life-supporting capacity is measured through a range of indicators or parameters.</p> <p>Objective A1 is a relevant consideration for all applications for resource consents, including discharge applications and land-use applications that potentially impact on freshwater quality.</p> <p>The word “safeguard” requires a proactive response by local authorities determining ways to ensure, for example, “protection of freshwater ecosystems”. However, the objective does not imply there would never be any change or adverse effect in a waterbody. Rather, it requires that change is proactively managed to ensure the defined objective continues to be met.</p> <p>Objective A1 provides for a balanced approach, consistent with the purpose of the RMA.</p>	
<b>Regional response</b>	<b>Territorial response</b>
<p>Regional policy statements and plans already contain freshwater quality provisions. In implementing the NPSFM, existing provisions will need to be assessed to determine whether they adequately reflect Objective A1 generally, and as it relates to objectives set for each waterbody.</p> <p>Objective A1 will be a relevant consideration in consent decision-making.</p>	<p>Objective A1 will be a relevant consideration in consent and Notice of Requirement decision-making.</p>

## Objective A2

**The overall quality of fresh water within a region is maintained or improved while:**

- a. protecting the quality of outstanding freshwater bodies**
- b. protecting the significant values of wetlands, and**
- c. improving the quality of fresh water in waterbodies that have been degraded by human activities to the point of being over-allocated.**

### *Overall quality of fresh water*

Objective A2 recognises that a bottom line of at least maintaining all aspects of water quality everywhere is not possible. It does not require every degraded waterbody will be cleaned up, some will remain in their current state; the objective-setting process will determine which ones. The Objective allows for some variability in water quality as long as the overall water quality is maintained in a region. Objective A1 must also be met.

This Objective also sets three additional, specific requirements for managing water quality.

### *Outstanding freshwater bodies*

Where the affected waterbody is “outstanding” it must be protected.

Protecting outstanding waterbodies and significant wetlands is a high threshold. It generally means that adverse effects on the quality of the waterbody, or values of the wetland, will be avoided.

Objective A2 recognises there are a small number of outstanding waterbodies across New Zealand that should be protected. “Outstanding waterbodies” is defined in the NPSFM as “bodies with outstanding values including ecological, landscape, recreational and spiritual values”. Regional communities will determine which waterbodies are outstanding through the regional objective-setting process.

### *Significant values of wetlands*

The second requirement is that any significant values of wetlands must be protected.

A wetland is defined in the RMA as including “permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions”.

In this case, it is the values rather than the wetland itself that Objective A2 seeks to protect.

Significant value(s) of a wetland and how to protect them will need to be determined according to regional community preferences. For example, a wetland may have a significant value related to native biodiversity, fisheries, geomorphology, culture, science, recreation, landscape, water yield regulation or water purification. Any conflicts between protection measures for different values will need to be resolved; for example, a biodiversity value may be protected by preventing contaminated water entering the wetland, while a water purification objective could be protected by allowing such flows to enter and maintaining the wetland to allow flows to be effectively processed. The Ramsar Convention on Wetlands (ratified by New Zealand) requires that all wetlands be managed to maintain their ecological integrity.

The rarity of wetlands nationally does not necessarily make all wetlands significant. There is significant case law available on methodology for identifying ecological significance of wetlands. See for example *Minister for Conservation v Western Bay or Plenty DC* A071/01 and *Mighty River Power Ltd v Waikato RC* A146/01.



*Degraded waterbodies*

The third requirement is the enhancement of over-allocated waterbodies. This does not require that all waterbodies that are degraded be enhanced. Rather, it focuses on those where the degradation has resulted in the waterbody being “over-allocated” as defined in the NPS. Section 2.2 provides guidance on the identification of over-allocation.

Over-allocation has occurred where allocations are not consistent with the objective or limit set for the waterbody. Those objectives will be identified by regional councils, along with targets for addressing over-allocation. The target-setting process will be at a catchment scale (Policies A1 and A2).

The RMA definition of “contamination” includes all discharges that change the physical, chemical or biological condition of the receiving environment. However, Objective A2 restricts the scope of enhancing the quality of degraded fresh water to only those situations where human activity is the cause of degradation. This recognises that fresh water may be degraded by factors that are not influenced by human activity (eg, geothermal discharges). These natural state effects are not covered – only the effects of human activities are sought to be addressed through objectives, limits and targets. The concept of over-allocation applies to both water takes and water quality.

Objective A2 will be given effect to through plan changes and, in particular, implementation of Policies A1–A3.

<b>Regional response</b>	<b>Territorial response</b>
<p>In setting regional freshwater objectives and limits under Policy A1, and in managing discharges under Policy A3, regional councils will need to identify and protect outstanding freshwater bodies, identify and protect significant values of wetlands, and ensure over-allocated waterbodies are not further degraded.</p> <p>Objective A2 will be a relevant consideration in consent decision-making.</p>	<p>Objective A2 will be a relevant consideration in consent and Notice of Requirement decision-making.</p>

## Policy A1

**By every regional council making or changing regional plans to the extent needed to ensure the plans:**

- a. establish freshwater objectives and set freshwater quality limits for all bodies of fresh water in their regions to give effect to the objectives in this national policy statement, having regard to at least the following:**
  - i. the reasonably foreseeable impacts of climate change**
  - ii. the connection between waterbodies**
- b. establish methods (including rules) to avoid over-allocation.**

A major element of the NPSFM is a strengthened limits-based regime.

### *Regional freshwater objectives*

The setting of freshwater objectives (being the intended environmental outcomes or environmental state objectives) is a necessary first step in setting limits. In setting objectives for a region, the provisions of this NPSFM must be given effect to. The national values in the preamble also provide a useful reference for establishing objectives (these are listed in Appendix B). Community values associated with each waterbody as determined through engagement with the community will be important factors in objective setting.

A single, comprehensive objective could be set for the waterbody, encompassing a range of key parameters to address both quality (Policy A1) and quantity (Policy B1). Alternatively, there could be multiple objectives, each covering a narrower scope. In either case, it is obviously important that conflicting objectives are avoided.

Regional freshwater objectives need to describe an intended environmental outcome or identify the environmental state required to enable regional values and priorities to be met, rather than just state what those values and priorities are.

The setting of regional objectives, and hence limits, must be made in the context of environmental, social, cultural and economic values. Councils are expected to engage with their communities, including iwi, about the way their waterbodies are valued to set freshwater objectives and translate those objectives into limits, environmental flows or levels in their regional plans.

Freshwater objectives should be set at a variety of scales and levels of detail. Broad narrative objectives for the region may be set in a regional policy statement. More detailed narrative objectives for a region and/or an individual catchment can be set in regional plans as objectives and policies. Detailed freshwater objectives can be numeric (eg, a desired concentration of a contaminant, or a measure of a marker species) and can be set as policies in regional plans. A narrative objective may outline an acceptable amount of change, an outcome or parameters sought, without containing numeric values. A detailed objective may relate to a part of a waterbody or catchment.

RPSs and regional plans should identify the objectives and policies that are freshwater objectives for the purpose of giving to the NPSFM.

### *Freshwater limits*

Limits are to be set to ensure freshwater objectives established for the relevant waterbody are met, rather than to give effect to more generic RMA or sustainable management objectives. Limits are also discussed in section 2.2.

As a limit is a specific quantifiable amount, it must be given effect to through rules that:

- manage all activities that relate to the limit, without excluding certain activities
- manage allocations outside the limit, for example through activity status.

A limit is “the maximum amount of resource use available, which allows a freshwater objective to be met”. A common type of limit would be one that sets the maximum nutrient load entering a waterbody. A limit is not just the maximum resource use a waterbody can withstand; rather it is the maximum resource use to achieve the identified objective for that waterbody. A limit differs from a standard because a standard can be articulated as an objective rather than an actual quantifiable maximum limit. A limit needs to specify an actual maximum. The plan cannot allow for additional resource to be allocated above that maximum limit, even if the objective is still met.

In defining the limit, there will need to be examination of:

- those parameters that need to be managed through the setting of a limit, because they will determine whether the freshwater objective is achieved. In the case of water quality, that includes identifying the key potential contaminants (eg, sediment, nitrogen, phosphorus)
- the limit for each of those contaminants, taking into account any possible interactions between contaminants (eg, it may be necessary to also set limits related to nitrogen/phosphorous ratios)
- the appropriate limit to achieve the objective established by the community, as opposed to the scientific approach to a limit
- where the limit is to be applied (eg, to the input into the lake itself, the streams feeding into the lake, or by managing nutrient inputs to the land in the catchment).

A water quality limit will require a quantifiable total or “allocation” for a resource from all sources of a contaminant. An example of this is Lake Taupo, where the total amount of nitrogen load in the catchment surrounding the lake is cumulatively controlled and limited to achieve the freshwater quality objective for the lake.

Limits can be set at a range of scales to fit regional circumstances, but must cover all waterbodies within a region. Limits can be waterbody-specific, or can cover a number of waterbodies (a default limit). In considering the management unit to which a limit applies, account will need to be taken of connections between waterbodies. For example, a river, its streams and its underlying aquifer may need to be treated as a single unit. Limits may be set by total allocation or in blocks. Limits can be related to activities but, with this approach, limits are required for all activities that contribute to a waterbody’s water quality.

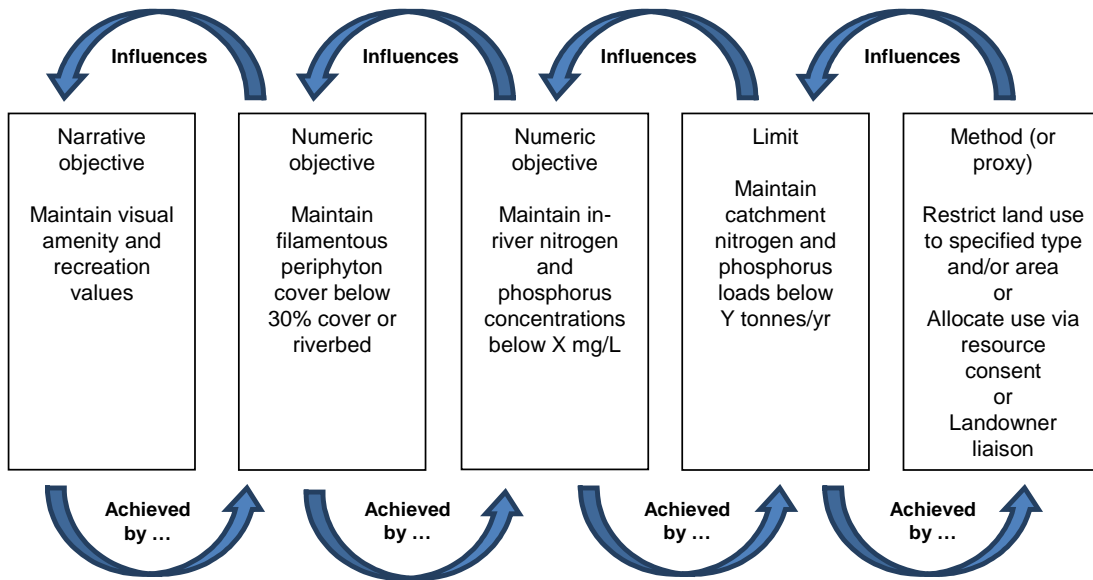
Accurate limit setting can be technically difficult, time-consuming and expensive. It would be appropriate for the regional council to prioritise which catchments (and waterbodies) require a very site-specific, limit-setting process (rather than being able to be addressed through generic limits for that type of waterbody), and which catchments (and waterbodies) would benefit most from earlier setting of limits. Experience nationally and internationally suggests that limit setting, particularly in water quality, will be difficult to get right the first time. Once a limit is set, it is likely to be modified and fine-tuned in subsequent plan changes as better information is obtained.

Policy A1 references giving effect to all objectives of the NPSFM. This clarifies that, when setting water quality limits, other relevant considerations are water quantity, integrated management and iwi values and interests.

*Link between objectives, limits and methods*

The following diagram illustrates the link between objectives, limits and methods, using examples to illustrate.

**Figure 1: Objective limits cascade example<sup>2</sup>**



*Methods to avoid over-allocation*

Policy A1 specifically refers to avoiding over-allocation. This can be done by setting limits in rules in regional plans. The fundamental purpose of a limit is to provide a clear indication of when over-allocation would occur. Because a limit is put in place to ensure a freshwater objective is achieved, where a limit is breached, over-allocation will be deemed to have occurred (whether or not that breach would have positive benefits, or not create adverse effects). Where resources are already over-allocated, local authorities will need to set a target to improve water quality (under Policy A2) until the over-allocation has been corrected. Over-allocation must be avoided, not just mitigated or remedied. Avoiding over-allocation will avoid adverse cumulative effects on water quality.

Reference to methods in Policy A1(b) allows for both regulatory and non-regulatory approaches. Methods or rules can apply to both point source and diffuse discharges. RMA methods will include permitted activities, activity status and allocation through resource consents. Non-regulatory methods could include funding, landowner liaison or voluntary programmes.

Flexibility in approach is available through the methods adopted. The full suite of regulatory and non-regulatory approaches is available as required to suit the individual catchment.

<sup>2</sup> Adapted from Environment Canterbury Technical Report for Hurunui Catchment, 2010.

### *Reasonably foreseeable impacts of climate change*

Communities and businesses require long-term stability in allocations and rules. Therefore, when rules are set, future changes in catchments and climate need to be considered. In setting limits, it is important to consider matters such as:

- changes in frequency and severity of droughts
- rainfall, snow and evaporation rates, which are likely to change water flows and aquifer levels, or worsen or otherwise change existing problems with availability
- changes in temperatures which may influence algal blooms or changes to water quality
- changes in sea level which are likely to affect salination and groundwater quality
- deterioration of water quality in some areas as a result of lower flows in freshwater bodies.

Considerations of the impacts of climate change should be based on the best information available. The starting point is Ministry for the Environment guidelines for local government on climate change (Ministry for the Environment 2008).<sup>3</sup> Where the regional council has already developed region-specific information for climate effects on hydrology (eg, rainfall models), regard should be had to this information in establishing objectives and limits.

### *Connection between waterbodies*

Regional councils are to have regard to the connection between waterbodies in establishing freshwater objectives and limits. Those connections may be physical (eg, a lake and its adjacent wetlands), or through water movements (eg, a river and an aquifer that is partially recharged by the river), or through biodiversity movements (eg, eels may access a lagoon through movement over the barrier between it and the adjacent sea or river). Connections include:

- connections between surface and/or groundwater and wetlands
- connections between surface and hydraulically-connected groundwater.

### *Coastal environment*

Policy A1 does not apply to coastal water or geothermal water. However, a limit may be driven by an objective for water quality in the coastal marine area. The need to protect significant values of coastal wetlands is also required by Objective A2. The Policy does apply to freshwater bodies in the coastal environment;<sup>4</sup> therefore, in planning for freshwater bodies in the coastal environment, regard must also be given to the matters outlined in relevant policies of the NZCPS 2010, in particular Policy 21 (enhancement of water quality), Policy 22 (sedimentation) and Policy 23 (discharge of contaminants). These policies are included in Appendix A.

These policies of the NZCPS 2010 apply to the same waterbodies and subject matter as the NPSFM and both need to be considered and given effect to. Coordinated implementation of both documents will be required in planning for the coastal environment; for example, considering specific NZCPS 2010 requirements about sediment loading, human sewage contamination and stormwater management.

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<sup>3</sup> Ministry for the Environment. 2008. *Climate Change Effects and Impacts Assessment: A Guidance Manual for Local Government in New Zealand*. Wellington: Ministry for the Environment.

<sup>4</sup> Refer to Policy 1 of the NZCPS for the definition of coastal environment.

Regional response	Territorial response
<p>Existing regional plans containing freshwater provisions will need to be assessed to determine whether they establish freshwater objectives, set limits for all freshwater bodies, and establish methods to avoid over-allocation within the objective framework of the NPSFM, with particular reference to Objectives A1 and A2.</p> <p>In establishing objectives and limits to achieve Objective A2, regional councils will need to identify and protect outstanding freshwater bodies, identify and protect significant values of wetlands, and ensure over-allocated waterbodies are not further degraded. It will be important for communities to recognise the implications of setting objectives which require that water quality be improved above the current state (refer Policy A2).</p> <p>A change to a regional plan(s) must meet the timing requirements of Policy E1. Prioritising tools are available that can help develop a programme to give effect to Policy A1, ensuring improvements with the highest benefit compared to the cost are achieved first.</p>	<p>Where a regional plan introduces provisions that affect land use, territorial authorities must consider the implications of this for district plans. For example, regional land-use controls may encourage land-use change, and it would be appropriate for district plans to then provide appropriately for that change. District plans must not be inconsistent with amended regional plans.</p>

## Policy A2

<p><b>Where waterbodies do not meet the freshwater objectives made pursuant to Policy A1, every regional council is to specify targets and implement methods (either or both regulatory and non-regulatory) to assist the improvement of water quality in the waterbodies, to meet those targets, and within a defined time frame.</b></p>
<p>Regional councils must adopt a programme of progressive implementation of defined, time-limited stages to enhance the water quality of waterbodies that do not meet the regional freshwater objectives. Policy E1 describes progressive implementation programmes and their time frames.</p> <p>In relation to over-allocation, a target is “a limit which must be met at a defined time in the future”. This is relevant in setting water quality targets for addressing over-allocation of the waterbody’s assimilative capacity. Management of both point source and diffuse discharges may be required through targets to claw back over-allocation over time.</p> <p>The final target will be to achieve the limit that will meet the objectives established pursuant to Policy A1. A programme to reduce or claw back allocation will prescribe how to move from the existing resource use level to the desired limit. Intermediate targets (which could be specified in the same quantitative way as a limit) may also be set. Hence a stepped approach over time may be implemented towards the desired objective and limit for the waterbody.</p>

Flexibility in approach is available through the methods adopted (eg, rules, funding, landowner liaison, voluntary programmes). The full suite of regulatory and non-regulatory approaches is available and should be considered. The mix of approaches can be tailored to the individual catchment and can be targeted to local issues, interests and parties. This means that working collaboratively with relevant users and interested parties is important in setting targets, time frames and methods at a catchment level.

For existing resource consents, regional councils are limited in the regulatory methods that can be imposed until those consents expire, or are able to be reviewed in accordance with section 128 of the RMA. Section 128 provides for review where specified in the consent (section 128(1)(a)), and/or where an operative regional plan sets rules for levels, flows, rates or standards and it is appropriate to review the conditions of consent to meet those rules (section 128(1)(b)). Where possible, the planning process should be used for a comprehensive approach to implement this policy rather than solely relying on conditions of consent. However, using conditions could be an interim measure.

Methods established may give effect to both this policy and Policy A1(b) on avoiding over-allocation.

Policy 21 of the NZCPS 2010 (see Appendix A) is relevant in determining an overall approach to improving deteriorated water quality in the coastal environment. A deteriorated waterbody in the coastal environment is where water quality has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats or water-based recreational activities, or is restricting existing uses. Policy 21 includes some specific actions that should be taken, including excluding stock from waterbodies and riparian margins.

Regional response	Territorial response
<p><b>Policy A2 will only be relevant if and when freshwater objectives are not met.</b></p> <p>Where this policy applies, the regional council must establish a programme of targets, methods and time frames to improve water quality. Non-regulatory methods to give effect to Policy A2 may not need to be specified in the relevant regional plan by a plan change before implementing those methods. Some methods may already be provided for in the plan. Where changes to district plans are an appropriate tool, relevant provisions in the RPS may also be desirable.</p> <p>Policy E1(d) requires that the programme be adopted by 31 December 2012 if the 2014 deadline is unable to be achieved.</p> <p>The Policy is given effect to by adopting a programme and putting in place the methods, not by achieving the targets. The programme does not need to be included in a regional plan.</p>	<p>No response is expected.</p> <p>Where a regional plan implements methods, any provisions that affect land use will need to be considered by territorial authorities, particularly to ensure district plans are not inconsistent with regional plans.</p>

## Policy A3

<p><b>By regional councils:</b></p> <p><b>a. imposing conditions on discharge permits to ensure the limits and targets specified pursuant to Policy A1 and Policy A2 can be met, and</b></p> <p><b>b. where permissible, making rules requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant into fresh water, or onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering fresh water.</b></p>	
<p>Regional councils must avoid over-allocating water resources. Policy A3 complements and contributes to the regional limits, targets and methods set under Policies A1 and A2, by ensuring the limits and targets are achieved in assessing resource consent applications for discharges.</p> <p>Conditions imposed under part (a) of Policy A3 will need to be in the context of the plan provisions and section 107 of the RMA.</p> <p>Policy A3b is intended to be consistent with section 70(2) of the RMA for best practicable option (BPO) and when it may be imposed, it does not extend section 70(2) of the RMA. “Where permissible” in the policy reflects section 70(2). This requires councils to be satisfied that the inclusion of a rule which provides for the use of BPO is the most efficient and effective means of preventing or minimising adverse effects on the environment.</p> <p>Limits established under Policy A1 help define the benchmark for what are acceptable effects. Preventing (avoiding) or minimising (remedying or mitigating) are the words used in section 70.</p> <p>In managing discharges through conditions or rules in the coastal environment, regard must also be given to Policy 23 of the NZCPS 2010 (see Appendix A).</p>	
Regional response	Territorial response
<p>Once objectives and targets made under Policies A1 and A2 are operative, they will be a relevant consideration in imposing conditions on consents granted. Where necessary to meet objectives and targets, conditions must be imposed on discharge permits.</p> <p>Plans will need to be assessed to determine whether additional BPO provisions are required to give effect to Policy A3.</p> <p>If a change to a regional plan(s) is required to put in place BPO rules, the timing requirements in Policy E1 apply.</p>	<p>No response is required</p>



## Policy A4 and direction (under section 55) to regional councils

By every regional council amending regional plans (without using the process in Schedule 1) to the extent needed to ensure the plans include the following policy to apply until any changes under Schedule 1 to give effect to Policy A1 and Policy A2 (freshwater quality limits and targets) have become operative:

- “1. When considering any application for a discharge the consent authority must have regard to the following matters:**
  - a. the extent to which the discharge would avoid contamination that will have an adverse effect on the life-supporting capacity of fresh water including on any ecosystem associated with fresh water, and**
  - b. the extent to which it is feasible and dependable that any more than minor adverse effect on fresh water, and on any ecosystem associated with fresh water, resulting from the discharge would be avoided.**
  
- 2. This policy applies to the following discharges (including a diffuse discharge by any person or animal):**
  - a. a new discharge, or**
  - b. a change or increase in any discharge –**  
**of any contaminant into fresh water, or onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering fresh water.**
  
- 3. This policy does not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management takes effect on 1 July 2011.”**

### *Effect of Policy A4*

This transitional policy is inserted into a regional plan by amending the plan in accordance with section 55(2) of the RMA. Policy A4 has specific effect in considering resource consent applications once that amendment is made. Before then, councils must give regard to Policy A4 as part of the NPSFM when considering an application for resource consent (section 104(1)(b)(iii)).

This policy requires that a regional council consider certain matters in assessing and determining an application for a discharge permit. The matters are the equivalent to assessment matters or matters of control, and should be inserted into plans alongside other assessment matters for discharges.

The direction that the consent authority must “have regard to” the listed matters is no stronger than the requirement of section 104 of the RMA to have regard to a number of matters, including any actual or potential effects on the environment, and the NPSFM. This interim policy therefore draws further attention to specific matters relevant to water quality, and the connection between land use and water quality over and above the more general considerations required by the RMA.

Policy A4 does not expressly identify the matters listed in 1(a) and (b) as matters of control or discretion. This policy does not affect activity status and regard to the matters in Policy A4 will be within the parameters of the activity status. The policy will therefore operate differently depending on the activity status. For example, it will not provide a basis for refusing consent for controlled activities, but will provide a platform for imposing conditions of consent (as it amends the matters of control). When Policy A4 is inserted into a plan, councils may wish to help avoid confusion by outlining how the Policy will operate in the context of particular rules and activity status within the plan. The reference to effects that are more than minor is intended to ensure the Policy does not impose significant compliance and opportunity costs where adverse effects may only be minor.

NZCPS 2010 Policy 23 (see Appendix A) also lists matters to which regard must be given and requirements for certain types of discharges in the coastal environment.

*What Policy A4 applies to*

Policy A4 applies to decisions on discharge permits required under the current regional plan. It does not apply to land-use (or other) applications that may involve a discharge that is authorised by a permitted activity rule unless, or until, they require additional or new consents. The policy applies to new discharges or changes/increases in discharges that are likely to result in more than minor adverse change to the fresh water. The policy does not apply to new consents or replacement consents for the same already consented discharge where there is no change or increase in the discharge.

Policy A4 applies where regional plans need to be amended to give effect to Policies A1 and A2. Where regional plans already give effect to these policies, no amendment to the plan is required – duplication is not necessary.

The Policy requires regional councils to insert the policies directly into regional plans (without using the Schedule 1 process) as soon as practicable after 1 July 2011.

*Interim effect*

It is acknowledged the process and time frames for setting regional water quality objectives and limits may be significant for some regions. Policy A4 therefore seeks to provide the ability for regional councils to consider matters to ensure the objectives of the NPSFM for water quality can be achieved in the interim.

Regional response	Territorial response
<p>Regional council consideration and determination of resource consent applications lodged after 1 July 2011 need to have regard to Policy A4 under section 104(1)(b), pending the inclusion of the Policy in a plan.</p> <p>Regional councils need to amend plans to incorporate the provision as soon as practicable. The most efficient response will usually be to insert the policy into plans using the exact wording in Policy A4.</p> <p>Under sections 55(2) and 55(2A), public notice is to be given once amendments are made.</p>	<p>No response is required.</p>

## B Water quantity

### Objective B1

<p><b>To safeguard the life-supporting capacity, ecosystem processes and indigenous species, including their associated ecosystems of fresh water, in sustainably managing the taking, using, damming or diverting of fresh water.</b></p>	
<p>As with Objective A1, the word “safeguard” requires a proactive response by local authorities to ensure that activities can be undertaken in a sustainable way to provide for the economic, social and cultural wellbeing of people and communities. The Objective applies a sustainable approach to freshwater use rather than a no-adverse-effects framework.</p> <p>Freshwater bodies and the aquatic communities they support may vary across a region for different types of freshwater ecosystems. What is required to achieve “safeguarding” of the specified matters will be catchment-specific. Life-supporting capacity may be measured using a range of indicators or parameters.</p> <p>This objective is a relevant consideration for decision-makers when determining resource consent applications to take, use, dam or divert fresh water.</p> <p>The Objective provides for sustainable management, consistent with the purpose of the RMA.</p> <p>The guidance on Objective A1 relates to water quality but generally applies equally to this objective.</p>	
<p><b>Regional response</b></p>	<p><b>Territorial response</b></p>
<p>Regional councils will need to give effect to Objective B1 in RPS and regional plans.</p> <p>RPS and regional plans may already contain freshwater quantity provisions. These provisions will need to be assessed to determine whether they adequately reflect the Objective.</p>	<p>No response is required.</p>

## Objective B2

<b>To avoid any further over-allocation of fresh water and phase out existing over-allocation.</b>	
<p>Over-allocation is defined in the NPSFM, and section 2.2 provides guidance on identifying over-allocation.</p> <p>The definition of over-allocation is linked to the assessment of over-allocation in establishing freshwater objectives (refer Policy B1). The geographical and temporal definition of over-allocation will therefore relate to the detail of the freshwater objective for a particular freshwater body. In some catchments across New Zealand, water is currently over-allocated, while in others, over-allocation is not an issue.</p> <p>In some regions, there is recognised over-allocation, where the use of water has created changes in water bodies that prevent them delivering desired community outcomes. But there are also consented over-allocations where the full use of allocations would result in changes to the water body but for the fact that current use is below that which has been consented.</p> <p>Where over-allocation has occurred, this objective seeks the incremental reduction of water use over time until a sustainable level is reached. For example, a sustainable level would be where freshwater objectives and allocation limits set under Policy B1 are met. Where over-allocation has not occurred, the objective requires that measures are put in place to avoid it occurring in future; prevention is better than cure. “Avoiding” over-allocation is more stringent than “avoiding, remedying, or mitigating”. Avoidance would be achieved through setting and implementing limits.</p> <p>The NPSFM intends that methods should be developed to achieve the avoidance of over-allocation. However, this could be achieved through a staged approach, with interim methods to mitigate or remedy (refer to progressive implementation in Policy E). Avoiding over-allocation is a specific obligation of the NPSFM and sets an expectation that adverse cumulative effects on water quantity will be avoided.</p>	
<b>Regional response</b>	<b>Territorial response</b>
<p>Regional council's will need to give effect to Objective B2 in RPS and regional plans.</p> <p>This will be achieved by implementing the policies in section B of the NPSFM, particularly Policies B5 and B6. In setting freshwater objectives and limits under Policy B1, regional councils will be able to identify over-allocated catchments.</p>	<p>No response is required.</p>

## Objective B3

<b>To improve and maximise the efficient allocation and efficient use of water.</b>	
<p>The phrase “to improve” indicates measures currently in place to advance efficient allocation and use of water may not be sufficient.</p> <p>Efficient allocation and efficient use of water will ensure maximum benefit is gained from using the resource. Measures of both efficient use and efficient allocation are needed to ensure these are being delivered.</p> <p>Efficient use may involve:</p> <ul style="list-style-type: none"> <li>• not wasting water; ie, ensuring that all water used is delivering the intended benefit</li> <li>• using the most efficient available technology</li> <li>• reducing the need for water by changing the way benefits are achieved. For example, changing crop varieties to one that requires less irrigation but delivers the same economic benefits</li> <li>• changing the timing of water use to better fit with water availability and minimise the use of higher value water. For example, reduce use of water at times of low flow.</li> </ul> <p>Efficient allocation may involve:</p> <ul style="list-style-type: none"> <li>• ensuring processes used to allocate water are efficient, by selecting the optimal mechanism for the circumstances</li> <li>• ensuring that scarce water is directed to the highest value uses, taking account of issues of fairness and equity</li> <li>• providing an appropriate balance between the need for users to have certainty of allocation over time, the need for the community to retain the ability to adjust allocations to improve outcomes, and the need to allow new water users to have an opportunity to gain an allocation where the resource is already fully allocated</li> <li>• ensuring efficient use</li> <li>• taking into account environmental, economic, social and cultural interests, and how these may change over time</li> <li>• providing an allocation where the rights and responsibilities of the recipient are clearly defined.</li> </ul> <p>Commentary on the meaning of technical, economic and dynamic efficiency in achieving water efficiency is provided for Policies B2, B3 and B4.</p> <p>Information provided by significant water users under the Resource Management (Measurements and Reporting of Water Takes) Regulations 2010 will help provide robust information for implementing this Objective. Improvements in the efficiency with which water is allocated will result in New Zealanders obtaining greater value from the country’s water resources over time.</p>	
<b>Regional response</b>	<b>Territorial response</b>
Objective B3 will be given effect to by implementing policies in section B of the NPS, particularly Policies B2, B3 and B4.	No response is required.

## Objective B4

To protect significant values of wetlands.	
Guidance provided for Objective A2 on protecting the significant values of wetlands is relevant for both water quality and water quantity.	
Regional response	Territorial response
Objective B4 will be given effect to by implementing policies in section B of the NPSFM, particularly Policy B1. Depending on the values of the wetland, limit setting alone may not be enough to protect the wetland and other measures will also be required.	Objective B4 will be a relevant consideration in consent and Notice of Requirement decision-making.

## Policy B1

<p><b>By every regional council making or changing regional plans to the extent needed to ensure the plans establish freshwater objectives and set environmental flows and/or levels for all bodies of fresh water in its region (except ponds and naturally ephemeral waterbodies) to give effect to the objectives in this national policy statement, having regard to at least the following:</b></p> <p><b>a. the reasonably foreseeable impacts of climate change</b></p> <p><b>b. the connection between waterbodies.</b></p>
<p>A major element of the NPSFM is a strengthened limits-based water management regime. Policy B1 is a critical policy for implementing that regime, alongside Policy A1.</p> <p>The guidance on Policy A1 generally applies equally to this Policy.</p> <p>A strengthened limits-based water management regime should: improve consenting efficiency; provide certainty in supply; avoid the need to reduce or claw back over-allocation in future; and maintain ecosystem services that all water users rely on – for example, the provision of good drinking water quality for public health.</p>
<p><i>Establishing regional freshwater objectives and environmental flows/levels</i></p> <p>The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 require significant water takes to be measured and the results reported to the relevant regional council. These Regulations will provide councils with more accurate information about water use and enable consistent measuring and reporting of actual water use across regions. This information will be able to be used in the assessment of water availability and use discussed above.</p> <p>Where insufficient information is available, a conservative approach could be taken in the short term (eg, through the use of a default limit) while information is gathered to inform the setting of environmental flows (limits) across a catchment. In keeping with Policy E1 of the NPSFM, such an approach needs to be part of a time-limited, staged implementation that is publicly reported on every year and fully implemented by 2030.</p>

*Examples of objectives, limits and methods*

The guidance under Policy A1 relating to objectives, limits and methods is equally applicable to this Policy. The limits (both the allocation limit and flow aspects) can be variable to reflect seasonal or other factors, as long as the variation is set out quantitatively and the variable limits are consistent with the objectives.

Additional methods may also be required to meet the numeric objective, in addition to the limit. These may be non-regulatory; for example a riparian planting programme.

An example of a narrative objective for a river or stream could be: *Maintain sufficient water flow to protect native fish.*

An example of a numeric objective to achieve this might be: *Maintain sufficient flow to provide 90 per cent habitat retention for adult blue-gilled bullies.*

An example of an environmental flow to achieve this could be: *The allocation limit is Y litres per second and water takes must cease when flows reach the minimum flow of Z litres per second.*

*Connection between waterbodies*

Guidance under Policy A1 about connections between waterbodies applies equally to this Policy.

*Coastal water and other exclusions*

Policy B1 does not apply to coastal water or geothermal water, or to ponds or naturally ephemeral waterbodies.

*Progressive implementation*

Requiring environmental flows and/or levels to be set in all waterbodies in a region requires a significant body of work. A number of regional councils have already made significant progress in setting flows and levels for some waterbodies in their regions. In regions where significant work has not been progressed, the work can, in accordance with Policy E of the NPSFM, be undertaken in a progressive manner, provided the implementation programme is publicly notified and reported on annually. In regions where significant work has not progressed, as a first step it may also be appropriate to set default limits for small waterbodies or those that are not under allocation pressure.

Through the Fresh Start for Fresh Water programme, a range of mechanisms and tools will be developed over time by the Ministry to help councils implement the NPSFM. Draft guidance is currently available on ecological flows and technical methods (refer section 1.5 of this guidance).

<b>Regional response</b>	<b>Territorial response</b>
Existing regional plans containing freshwater provisions will need to be assessed to determine whether they establish objectives, set flows/levels and allocation limits for all freshwater bodies, and will need to be changed as necessary to give effect to the policy.  Policy E1 sets out the time frames within which this work must be done.	Where a RPS or regional plan introduces provisions to implement this policy that affect land use, territorial authorities must consider the implications for district plans. District plans must give effect to the RPS and not be inconsistent with amended regional plans.

## Policy B2

**By every regional council making or changing regional plans to the extent needed to provide for the efficient allocation of fresh water to activities, within the limits set to give effect to Policy B1.**

Guidance on Objective B3 provides comment on “efficient allocation”.

The current ‘first in, first served’ approach to water allocation presents challenges as the amount of available water in a catchment reduces.

Limits set through the implementation of Policy B1 will define how much of a particular water resource is available for allocation. Policy B2 seeks to ensure the available resource is allocated efficiently.

The reference to Policy B1 is intended to recognise that allocation of fresh water must not exceed the limits that have been set under that Policy.

Under section 30 of the RMA, regional councils have the function of establishing rules in regional plans to allocate the taking and use of water, including the allocation of that water to types of activities.

Thus, Policy B1 requires the setting of limits and allocation of fresh water; while Policy B2 requires the allocation required by Policy B1 to be efficient. Neither policy requires the allocation of fresh water to particular activities, but councils have the ability to do so in accordance with section 30(4)(e) of the RMA if they and their community so wish.

Efficient allocation of water is expected to vary according to regional differences in water availability, regional differences in the types of activities that use or affect fresh water in a region, and the values that communities place on these aspects.

The intention is for decisions on allocation efficiency to be made in plans, not through consents. This enables all takes, consented or otherwise, to be accounted for in providing for efficient allocation.

Regional councils with over-allocated catchments may be able to consider a range of options to review and reduce allocations. These include: reallocation; or progressive reduction in the volumes of water consented to be taken over time (sinking lid); or common expiry dates within the catchment.

Regional response	Territorial response
<p>Existing regional plans containing freshwater provisions will need to be assessed to determine whether they will result in efficient allocation, and changed as necessary to give effect to Policy B2.</p> <p>Policy E1 sets out time frames within which this work must be done.</p>	<p>No response is required.</p>



## Policy B3

<p><b>By every regional council making or changing regional plans to the extent needed to ensure the plans state criteria by which applications for approval of transfers of water take permits are to be decided, including to improve and maximise the efficient allocation of water.</b></p>	
<p>Efficiency of allocation is discussed further under Objective B3.</p> <p>Policy B3 seeks to ensure councils' approach to transfers of water take permits contributes to the efficient allocation of water; and, by implication, the achievement of freshwater objectives and compliance with limits. Transfers may be appropriate where the person/company undertaking the relevant activity changes, or to allow the movement of water from one user/use to another. Shifting allocations over time recognises that fresh water may be valued differently at different times by different parties.</p> <p>Regional councils are required to state in regional plans their assessment criteria for approving the transfer of water take permits in order to improve and maximise the efficient use of water.</p> <p>The NPSFM seeks to encourage appropriate transfers by increasing certainty and removing unnecessary administrative barriers or inefficiencies. Policy B3 is subject to the provisions of the Act, including sections 30 and 136. For example, the matters specified in section 104, and the effects of the transfer, must be considered under section 136(4)(b)(ii).</p> <p>Policy B3's focus on transfer is anticipated as the first step in creating a greater uptake of transfer of consents to maximise efficient allocation. The broader area of 'dynamic efficiency' is considered to provide opportunities for new approaches in trading and transfer systems that enable appropriate consideration of both environmental and economic outcomes. For example, short consent terms may help achieve dynamic efficiency and enable regular review, but would not always be economically efficient for investment.</p>	
<b>Regional response</b>	<b>Territorial response</b>
<p>Review existing plans and, if necessary, change these or provide new plan provisions to give effect to Policy B3.</p> <p>Policy E1 sets out the relevant time frame for that work.</p>	<p>No response is required.</p>

## Policy B4

<b>By every regional council identifying methods in regional plans to encourage the efficient use of water.</b>	
<p>Policy B4 is related to technical efficiency – the rate at which resources, capital and labour are converted to goods. More goods produced for the same amount of fresh water equates to a higher technical efficiency in water use. Efficiency of use is discussed further under Objective B3.</p> <p>The reference to methods allows for the use of both regulatory and non-regulatory methods.</p> <p>Examples of non-regulatory methods already used in some regions are: council/industry partnerships; and voluntary agreement to targets, such as percentage efficiency targets for certain land uses or municipal water supplies.</p> <p>Examples of regulatory methods are: a different status of activity based on the level of efficiency demonstrated for the activity (eg, an irrigation application); or a requirement to develop a conservation/efficiency plan.</p> <p>Because Policy B4 specifically directs the inclusion of methods in regional plans, resource consents and decision-making related to the use of water may be indirectly or directly affected.</p>	
<b>Regional response</b>	<b>Territorial response</b>
<p>Existing plans containing provisions about the efficient use of water should be assessed to determine if they adequately give effect to Policy B4, and, if necessary, changes made.</p> <p>Policy E1 sets out time frame requirements.</p>	<p>No response is required.</p>

## Policy B5

<p><b>By every regional council ensuring that no decision will likely result in future over-allocation – including managing fresh water so that the aggregate of all amounts of fresh water in a waterbody that are authorised to be taken, used, dammed or diverted – does not over-allocate the water in the waterbody.</b></p>	
<p>Policy B5 is fundamentally important to avoiding further over-allocation as sought by Objective B2. This Policy recognises a significant cause of over-allocation is the cumulative effects of multiple decisions, and specifically directs attention to that issue.</p> <p>Freshwater objectives and limits (required by Policy B1) will ensure the over-allocation threshold is clear to decision-makers. Good information on current allocations will be needed to determine whether over-allocation has occurred, or would occur if further activities are authorised.</p> <p>Limits and determining over-allocation need to account for <u>all takes</u>, whether by consented or permitted activities (ie, including section 14(3)(b) takes). Permitted activities can make up a significant quantity of cumulative takes from a waterbody. For example, takes for stock water, domestic use or fire fighting. Councils will also need to take into account the effects of permitted land uses that may change water yield from a catchment (eg, forestry plantings) or aquifer recharging, and effects of climate change on water availability.</p> <p>The use of the phrase “will likely result” requires a precautionary approach to future-proof allocation decisions that do not result in over-allocation. For example, to take account of the reasonably foreseeable impacts of climate change. During the consenting process, decisions about resource use should have due regard to reliable new information about the freshwater resource that is proposed to be used, to demonstrate that the allocation limit is not exceeded. Information presented as part of the consenting process may support a change of the default limit in the particular freshwater resource if it demonstrates that the current limit does not match well to the relevant objective. However, changing the limit (or the underlying objective) will require a plan change.</p> <p>Although Policy B5 does not specifically direct regional councils to change their plans, it is likely that this Policy will result in a need for regional plan rules and the activity status of activities that exceed allocation limits to be set.</p>	
<p><b>Regional response</b></p>	<p><b>Territorial response</b></p>
<p>Existing plans containing provisions regarding decision-making and/or over-allocation and/or cumulative effects relating to fresh water should be assessed to determine if they adequately give effect to Policy B5, and be changed if necessary.</p> <p>Policy E1 sets out time frame requirements.</p> <p>Regional councils considering and determining resource consent applications need to have regard to this Policy.</p>	<p>No response is required.</p>

## Policy B6

**By every regional council setting a defined time frame and methods in regional plans by which over-allocation must be phased out, including by reviewing water permits and consents to help ensure the total amount of water allocated in the waterbody is reduced to the level set to give effect to Policy B1.**

Policy B6 seeks to reduce over-allocation where it has already occurred.

Regional councils are limited in the regulatory methods that can be imposed on existing resource consents until those consents expire, or are able to be reviewed in accordance with section 128 of the RMA. Section 128 provides for review where specified in the consent (section 128(1)(a)), and where an operative regional plan sets rules for levels, flows, rates or standards and it is appropriate to review the conditions of consent to meet those rules (section 128(1)(b)). Where a review is undertaken pursuant to the terms of a review condition for a specific consent, the permissible scope of the review may be limited.

Non-regulatory methods and voluntary programmes could be implemented for existing resource consents, particularly where these do not have review conditions or there will be a longer lead time to achieve operative rules for the purpose of section 128 (1)(b).

As for Policy B5, over-allocation relates to all takes – consented or otherwise. This may include permitted activities that contribute to existing over-allocation, including land uses that affect water yield.

In seeking to achieve Policy B6, regional councils are required to determine an appropriate time frame and methods for reducing over-allocation. This provision to set an appropriate time frame recognises that the reduction in water available for use over time (as may be necessary to claw back over-allocation) is likely to have social, environmental, cultural and economic impacts that need to be balanced across a catchment or region.

Regional response	Territorial response
<p>Existing plans containing provisions regarding over-allocation and/or water permit reviews should be assessed to determine if they adequately give effect to Policy B6, and, if necessary, changed or new plans formed.</p> <p>Policy E1 sets out time frame requirements.</p>	<p>No response is required.</p>

## Policy B7 and direction (under section 55) to regional councils

By every regional council amending regional plans (without using the process in Schedule 1) to the extent needed to ensure the plans include the following policy to apply until any changes under Schedule 1 to give effect to Policy B1 (allocation limits), Policy B2 (allocation), and Policy B6 (over-allocation) have become operative:

- “1. When considering any application the consent authority must have regard to the following matters:**
  - a. the extent to which the change would adversely affect safeguarding the life-supporting capacity of fresh water and of any associated ecosystem, and**
  - b. the extent to which it is feasible and dependable that any adverse effect on the life-supporting capacity of fresh water and of any associated ecosystem resulting from the change would be avoided.**
  
- 2. This policy applies to:**
  - a. any new activity, and**
  - b. any change in the character, intensity or scale of any established activity –**

**that involves any taking, using, damming or diverting of fresh water or draining of any wetland which is likely to result in any more than minor adverse change in the natural variability of flows or level of any fresh water, compared to that which immediately preceded the commencement of the new activity or the change in the established activity (or in the case of a change in an intermittent or seasonal activity, compared to that on the last occasion on which the activity was carried out).**
  
- 3. This policy does not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management takes effect on 1 July 2011.”**

### *Effect of Policy B7*

This transitional Policy is inserted into all regional plans using Section 55(2) of the RMA until such time as the relevant Schedule 1 processes make operative the objectives, policies, methods or other measures that give effect to policies B1, B2 and B6 of the NPSFM. The provisions of the plan would then influence the consideration of resource consent applications. Before the amendment under section 55(2) is made to the regional plan, regional councils must have regard to Policy B7 in considering an application for resource consent (section 104(1)(b)(iii)).

Policy B7 requires that the regional council consider certain matters in assessing and determining an application for consent. The matters are the equivalent to assessment matters or matters of control and should be inserted into plans alongside them.

The direction that the consent authority must “have regard to” the listed matters is no stronger than the requirement of section 104 of the RMA to have regard to a number of matters, including any actual or potential effects on the environment, and the relevant provisions of the NPSFM. This interim Policy therefore draws further attention to specific matters relevant to water quality, and the connection between land use and water quality over and above the more general considerations required by the RMA.

*What Policy B7 applies to*

Policy B7 applies to consideration of applications where resource consent is required under the current regional plan. The Policy does not apply to permitted activities or existing activities unless, or until, they require additional or new consents. The Policy applies to a new or changed/increased activity that is likely to result in more than minor adverse change in the natural variability of flows or levels of fresh water. The Policy does not apply to new consents or replacement consents for the same already consented activity where there is no change in character, intensity or scale. The Policy does not apply where the activity involves only minor adverse change in the flow or level of fresh water.

Policy B7 does not expressly identify the matters listed in 1(a) and (b) as matters of control or discretion; however, this is the effect of the Policy. This Policy does not affect activity status, and regard to the matters in Policy B7 will be within the parameters of the activity status. The Policy will operate differently depending on the activity status. For example, for controlled activities they will not provide a basis for refusing consent, but for a non-complying activity or discretionary activity they may. In all cases they will provide a platform for imposing conditions of consent. When Policy B7 is inserted into a plan, a council may wish to outline how it will operate in the context of the plan's particular rules and activity status, to help avoid confusion.

*Interim effect*

Policy B7 is included to manage activities that adversely affect freshwater resources while regional plan changes required by the NPSFM are implemented (ie, it is an interim measure). It is acknowledged that the process and time frames for setting water quantity objectives and limits may be significant for some regions. This Policy therefore seeks to provide the ability for regional councils to consider matters to ensure the objectives of the NPSFM for water quantity can be achieved in the interim.

Policy B7 applies where regional plans need to be amended to give effect to policies B1, B2 and B6 of the NPSFM. Where regional plans already give effect to these policies, no amendment to the plan is required – duplication is not necessary.

The Policy requires regional councils to insert the policies directly into regional plans (without using the Schedule 1 process) as soon as practicable after 1 July 2011.

<b>Regional response</b>	<b>Territorial response</b>
<p>Regional council officers, and panels or commissioners considering and determining resource consent applications lodged after 1 July 2011, need to have regard to Policy B7 under section 104(1)(b), pending the inclusion of the Policy in a plan.</p> <p>Regional councils need to amend the plan to incorporate the provision as soon as practicable. The most efficient response will usually be to insert the policy into the plan using the exact wording in B7.</p> <p>Under section 55(2) public notice is to be given once amendments are made.</p>	<p>No response is required.</p>

## C Integrated management

### Objective C1

<b>To improve integrated management of fresh water and the use and development of land in whole catchments, including the interactions between fresh water, land, associated ecosystems and the coastal environment.</b>	
<p>The objective of integrated management is integral to the NPSFM. Objective C1 recognises the interconnections between the conditions in a catchment (eg, vegetation cover, nutrient inputs, changes in soils, erosion, etc) and the condition of freshwater systems, as well as the interconnections between those systems and the receiving coastal environment. The importance of integration is supported by provisions of the RMA and specific functions for regional councils, including sections 30(1)(a), 30(1)(c), 30(1)(g) and 59, and functions for territorial authorities in integrated management of the effects of land use in section 31(1)(a).</p> <p>While the RMA clearly sets out functions for regional councils, the objective of the NPSFM is not just to achieve integrated management, but to improve the integrated management of fresh water and land use and associated interactions. The baseline and measure for “improvement” will be set through regional councils assessing their own regional situation, approaches and provisions to give effect to Policies C1 and C2.</p> <p>Policy 4 in the NZCPS 2010 is also relevant to the implementation of Objective C1. Recent technical work has highlighted the potential significance of freshwater inputs to estuaries.<sup>5</sup></p> <p>Objective C1 requires collaboration between regional councils and territorial authorities to meet all freshwater objectives.</p>	
<b>Regional response</b>	<b>Territorial response</b>
<p>Regional policy statements and plans already contain fresh water, land use and integrated management provisions. These provisions will need to be assessed to determine whether they adequately reflect the objective sought.</p> <p>Regional councils will need to give effect to Objective C1 in any changes to RPS and regional plans.</p> <p>Regional councils will need to work collaboratively with territorial authorities to give effect to the objective.</p>	<p>Objective C1 is relevant for territorial authorities in considering the effects of land use on freshwater quality and water yields. For example, the effects of rural land use (eg, dairying, cropping) or the effects of residential development.</p> <p>Policies C1 and C2 do not require territorial authorities to amend plans, but amendment may be necessary to ensure district plans give effect to amended RPS and are not inconsistent with regional plans. Objective C1 will be relevant in undertaking district plan reviews for the territorial authorities’ integrated management function under section 31(1).</p> <p>Territorial authorities will need to work with regional councils to collaboratively give effect to the objective.</p> <p>Objective C1 will be a relevant consideration in consent decision-making for land use and subdivision.</p>

<sup>5</sup> NIWA, 2009. A review of land-based effects on coastal fisheries and supporting biodiversity in New Zealand. *New Zealand Aquatic Environment and Biodiversity Report No. 37*.

## Policy C1

**By every regional council managing fresh water and land use and development in catchments in an integrated and sustainable way, so as to avoid, remedy or mitigate adverse effects, including cumulative effects.**

The focus of Policy C1 is on planning rather than consenting.

The policy anticipates a catchment management approach in managing the interactions between land and water. It emphasises the need for integration between the management of land and water, as well as the coastal environment. Regional councils are the lead agencies and should use all functions available in section 30 of the RMA to achieve this. Policy C1 specifically requires regional councils to achieve integrated management of fresh water, land use and development.

Under the umbrella of Objective C1, improved integrated management of land use, water quality and quantity is expected, as is integration with the management of the coastal environment. This will require the regional council to look at methods it can introduce to manage the land-use impacts on water quality and quantity. These include, nutrient controls, management of impervious surfaces, management of stormwater, management of erosion and sediment input, and management of land uses that alter water yield. It will also require integration with territorial authority management of land use. For example, rural activity conversions and residential development or earthworks that may affect freshwater quality. Integration and consistency of approach across different regional and territorial planning instruments and programmes is required.

Policy 4, 22 and 23 of the NZCPS 2010 (refer Appendix A) are relevant in determining an approach to improving integrated management within the coastal environment. Policy 4 of the NZCPS 2010 requires councils to provide for integrated management in the coastal environment and for activities that affect the coastal environment. Policies 22 and 23 require consideration of the impact of land use on coastal water and consideration of the integrated management of catchments and stormwater networks.

These policies of the NZCPS 2010 apply to the same waterbodies and subject matter as the NPSFM, and both need to be considered and given effect to. Coordinated implementation of both documents will be required and it is not expected the policies of the NZCPS 2010 will result in different approaches to integrated management in the coastal environment. Rather, councils will need to specifically have regard to certain matters in managing land use and development, such as considering management of sediment loading and stormwater.



Regional response	Territorial response
<p>Regional councils will need to give effect to Policy C1 in RPS and regional plans.</p> <p>Existing regional plans will contain provisions that contribute to achieving integrated management. Freshwater and land-use provisions will need to be assessed to determine whether they establish objectives, policies and methods to fully achieve integrated management, including avoiding, remedying and mitigating cumulative effects, and, if necessary, be changed or supplemented.</p> <p>Coordination and collaboration with territorial authorities will be required to give effect to Policy C1.</p> <p>This policy will also be a relevant consideration in resource consent decision-making.</p>	<p>Territorial authorities will need to work with regional councils to collaboratively give effect to Policy C1.</p> <p>District plans may need to give effect to amended RPS and not be inconsistent with amended regional plans.</p>

## Policy C2

<p><b>By every regional council making or changing regional policy statements to the extent needed to provide for the integrated management of the effects of the use and development of land on fresh water, including encouraging the coordination and sequencing of regional and/or urban growth, land use and development and the provision of infrastructure.</b></p>
<p>Policy C2 reinforces the existing function of regional councils in section 30 of the RMA, and requires them to specifically provide for integrated management of land use and fresh water in regional policy statements.</p> <p>The policy recognises the relationship between land use and fresh water, as well as the role of regional councils in managing land use. The policy recognises the relationship between management of land use, water and provision of infrastructure (all types), and the need to plan at a regional scale. It also requires integration with territorial authority management of land use and provision of infrastructure.</p> <p>Policies 4, 6, 22 and 23(4)(C) of the NZCPS 2010 (refer Appendix A) are relevant in implementing Policy C2 in the coastal environment. Policy 4 requires councils to coordinate management and control of activities that cross administrative boundaries, and to work collaboratively with other agencies. As for Policy C1, it relates to some of the same locations and subject matter as the NZCPS 2010 policies. This reinforces the collaborative approach anticipated under Policy C1 of the NPSFM, rather than creating a different approach to integrated management in the coastal environment.</p>

Regional response	Territorial response
<p>Regional councils will need to assess their RPS to determine if it provides for integrated management to the extent outlined in Policy C2.</p> <p>If necessary, the RPS will need to be changed to specifically provide for coordination and sequencing of growth, land use/development, and provision of infrastructure, so far as they relate to managing the effects of use and development of land on fresh water. This will require collaboration with territorial authorities. Regional plans may need to be changed to give effect to the amended RPS.</p> <p>Policy C2 will also be a relevant consideration in resource consent decision-making.</p>	<p>Coordination and collaboration with regional councils will be required to give effect to Policy C2.</p> <p>District plans will need to give effect to amended RPS and not be inconsistent with amended regional plans.</p>

## D Tāngata whenua roles and interests

### Objective D1

<p><b>To provide for the involvement of iwi and hapū, and to ensure that tāngata whenua values and interests are identified and reflected in the management of fresh water including associated ecosystems, and decision-making regarding freshwater planning, including on how all other objectives of this national policy statement are given effect to.</b></p>	
<p>Objective D1 supports and clarifies the requirements of the RMA. It provides for the involvement of iwi and hapū and ensures tāngata whenua values and interests are identified and reflected in the management of, and decision-making for, freshwater planning.</p> <p>Changes may be required to the processes followed by councils when they engage with iwi and hapū in giving effect to the objectives and policies under the NPSFM.</p> <p>The NZCPS contains Objective 3 and Policy 2 that also relate to tāngata whenua roles and interests in the coastal environment. Refer to comments under Policy D1.</p> <p>The terms “provide for” and “to ensure” infer an imperative for action on the part of councils in relation to this Objective.</p> <p>The NPSFM Objective relates to involvement generally in freshwater management, and in decision-making in so far as it relates to freshwater planning. Existing RMA requirements still apply to other types of decision-making, for example in respect of consenting notification requirements.</p> <p>The term “involvement” allows for different approaches to hapū and iwi roles in the management of fresh water. Regional councils can engage with iwi and hapū so that both parties can equally determine what “involvement” in freshwater management might look like.</p>	
<b>Regional response</b>	<b>Territorial response</b>
<p>Councils will need to review the processes they use to engage with iwi and hapū on freshwater management as outlined in Policy D1, and decisions on planning instruments.</p>	<p>Councils will need to review the processes they use to engage with iwi and hapū on values and interests relevant to freshwater management as outlined in Policy D1, and decisions on planning instruments.</p>

## Policy D1

**Local authorities shall take reasonable steps to:**

- a. involve iwi and hapū in the management of fresh water and freshwater ecosystems in the region**
- b. work with iwi and hapū to identify tāngata whenua values and interests in fresh water and freshwater ecosystems in the region, and**
- c. reflect tāngata whenua values and interests in the management of, and decision-making regarding, fresh water and freshwater ecosystems in the region.**

Policy D1 refers to “local authorities” and hence applies to both regional and territorial authorities in relation to their water management functions within the scope of Objective D1. The Policy does not require amendment to plans or writing council process into a policy. It has immediate effect and is relevant to local authority work programmes to give effect to the NPSFM.

To “take reasonable steps” anticipates councils will provide appropriate opportunities for the iwi and hapū to be involved in implementing the NPSFM based on current good practice. What is reasonable steps will depend on the local context and available resourcing for both the council and iwi and hapū. Options beyond the RMA can be considered; for example, Local Government Act committee arrangements or memoranda of understanding. Plan provisions may be necessary in some cases, particularly to ensure that appropriate weight can be given to identified values.

The NPSFM refers to iwi and hapū rather than tāngata whenua. The definition of tāngata whenua in the RMA includes iwi or hapū. The more explicit reference to iwi and hapū in the NPSFM is not intended to expand the nature of who councils should involve and work with in implementing the NPSFM; it clarifies that councils’ obligations with regard to tāngata whenua and fresh water are to work with local iwi and hapū. Who the council involves and works with will depend on local circumstances.

This policy does not override or alter any existing or future obligations councils have under Treaty settlements.

Key words to consider in implementing this policy are:

*Involve:* This policy does not dictate the form of iwi and hapū involvement in the management of, and decision-making regarding, fresh water. There is a range of ways that iwi and hapū can be involved in the management of fresh water under existing legislation. Involvement may include consultation but may also include other methods for iwi and hapū to participate in freshwater management. Methods can include, but are not limited to, joint management agreements, joint committees, decision-making roles, relationship agreements and statutory acknowledgements.

*Work with:* Policy D1 (b) clarifies that councils should work with iwi and hapū and should not identify values and interests on their behalf. Council can work with iwi and hapū in a number of ways including, but not limited to: seeking technical advice and input to inform plan and/or plan change preparation, commission a report from iwi or hapū, use Mātauranga Māori to inform policy decisions, and include members of relevant iwi or hapū on plan hearing committees.

*Reflect:* Policy D1 requires that local authorities do more than just have regard to tāngata whenua values and interests in the management of, and decision-making regarding, fresh water and freshwater ecosystems. Policy-making processes need to consider tāngata whenua values and interests and take them into account in freshwater management decisions. Taking into account those values and interests is more than “having regard” to them but does not require a council to give effect to them. Councils need to be transparent in their decisions and demonstrate how they have reflected the values and interests. The interests of tāngata whenua include all four wellbeings and may include commercial interests of tāngata whenua.

The actions of involve, work with, and reflect are all under the heading of “reasonable steps” noted above.

The NZCPS 2010 contains Objective 3 and Policies 2, 21(e) and 23(3) that also relate to tāngata whenua roles and interests in the coastal environment (refer Appendix A). While NZCPS 2010 Objective 3 and Policy 2 and NPSFM Objective D1 and Policy D1 use different terminology in places, they are compatible provisions, and implementation of both should be achieved for fresh water in the coastal environment. It is likely that if the more detailed provisions in Policy 2 of NZCPS 2010 are given effect to for the part of a waterbody that is within the coastal environment, the same approach would also satisfy the provisions of the NPSFM.

Regional response	Territorial response
<p>Response to Policy D1 is not a one-off review and requires an ongoing response.</p> <p>Councils will need to review the processes and policies related to involving iwi and hapū for matters within the scope of Objective D1, and work with iwi and hapū to reflect tāngata whenua values and interests in decision-making regarding fresh water and freshwater ecosystems. Changes will need to be made to processes that do not give effect to Objective D1.</p> <p>The Policy does not specifically require amendment to the councils’ policy statements or plans, but this may be an appropriate response.</p>	<p>Response to Policy D1 is not a one-off review and requires an ongoing response.</p> <p>Councils will need to review their processes and policies related to involving iwi and hapū. They will need to work with iwi and hapū and reflect tāngata whenua values and interests in decision-making relevant to fresh water, within the scope of Objective D1, to ensure that processes give effect to this Objective. Changes will need to be made to any processes that do not.</p> <p>The Policy does not specifically require amendment to the councils’ plans, but this may be an appropriate response.</p>

## E Progressive implementation programme

### Policy E1

**This policy applies to the implementation by a regional council of a policy of this national policy statement.**

**Every regional council is to implement the policy as promptly as is reasonable in the circumstances, and so it is fully completed by no later than 31 December 2030.**

**Where a regional council is satisfied that it is impracticable for it to complete implementation of a policy fully by 31 December 2014, the council may implement it by a programme of defined time-limited stages by which it is to be fully implemented by 31 December 2030.**

**Any programme of time-limited stages is to be formally adopted by the council within 18 months of the date of gazetting of this national policy statement, and publicly notified.**

**Where a regional council has adopted a programme of staged implementation, it is to publicly report, in every year, on the extent to which the programme has been implemented.**

Policy E1 outlines the expectations and time frames for regional councils to implement the policies in the NPSFM.

All implementation is expected “as promptly as is reasonable in the circumstances”. It is expected that considerable progress will have been made in all regions well before 2030, and even where full implementation is not possible by December 2014, some progress in dealing with easier issues is expected before then. This Policy also recognises that each region will have different circumstances in determining when and how to respond to this NPS. For some regions, this means that implementation will be achieved well before 2030.

Where policies of the NPSFM require regional councils to make or change RPS or regional plans, these changes must be fully operative for this Policy to be considered implemented.

All existing regional plans are likely to give effect to some provisions of the NPSFM, but none currently give full effect to the NPSFM. Where a change to the RPS or regional plans is required, section 55(2C) requires the Schedule 1 process to be used (except for Policies A4 and B7). This may involve a series of plan changes. The NPSFM does not need to be given effect to with one plan change, nor in the first available plan change, if to do so would be unreasonable. Nevertheless, any plan change that is made, including project-specific plan changes, must give effect to the NPSFM in relation to all matters within the scope of that plan change.

The timelines in this policy relate to putting in place the necessary policies, plans and/or methods. The improvements in water quality are not required to be met by the stated times.

While full implementation is required by 31 December 2030, a regional council must either implement the policies in the NPSFM by December 2014 or formally adopt a staged implementation programme. If staged implementation is to be used, the regional council must develop a formal programme setting out the stages and time frames, formally adopt the programme, and publicly notify that the programme has been adopted. The council must do this before 12 November 2012. Preparing and adopting an implementation programme will need to meet Local Government Act 2002 obligations, as it involves resources and priorities and may be a significant part of the council work programme. Public notification of the implementation programme, along with the annual progress reports, is intended to engage the public in the approach and achievements of the council. Annual reporting could be through the annual plan and annual report under the Local Government Act 2002. Similarly, if possible, it would be appropriate for the implementation programme to be part of a council's Long Term Plan.

The options available for implementation recognise the differences in resourcing and in the extent of work that may be required in various regions. Where considerable cost and effort has to be applied in a region to fully achieve the NPSFM, a progressive implementation programme provides scope to identify priorities, resourcing and how the council will respond to the NPSFM's requirements.

An implementation programme may outline:

- the consultation strategy/programme
- the prioritising of plan changes by catchment and/or management issues
- the expected time for key milestones, such as notification of plan changes setting limits, timing for hearings, and timing for any review of consents.

As well as plan changes, the programme may outline other activities, initiatives and methods to be implemented, indicating timing, priorities and resourcing. Examples include consent reviews, capital works initiatives, changes to the council's own work programmes, and/or landowner liaison programmes. Implementation programmes will necessarily be flexible; for example, dates may change.

Engagement with communities and robust durable solutions can take time. This policy recognises the importance of quality rather than quick processes and frameworks, while seeking to ensure rapid progress where this is possible.

Implementation by the end of 2014 is encouraged, to fit with the local authority election cycle. Where a regional council needs to change an RPS or plan to implement a policy, it is acknowledged that this 2014 time frame may not be possible.

Policy E1 does not create a requirement for all objectives and limits under Policies A1, A2, B1 and B2 to be achieved by 2030, although objectives, limits and targets (including time frames for achieving the targets) must be set. In some cases, where there are significant legacy issues and long lag times to be dealt with (ie, nutrients from past land use still in transit to waterbodies), objectives and limits may take longer to achieve.

Regional response	Territorial response
<p>Regional councils should consider all the implementation requirements of the NPSFM in reference to the existing policy framework in the region. This will require an assessment of current freshwater management approaches and whether existing provisions need to be changed or if new provisions are required to implement each policy.</p> <p>Once the scope of work to implement the NPSFM is determined, a work programme can be developed in the context of the resources, priorities, and related work of the individual regional council. The work programme will identify the ability to meet the 2014 timeframe or the need to develop a more detailed progressive implementation programme.</p> <p>The council must adopt and notify a progressive implementation programme before 12 November 2012.</p> <p>Collaboration with territorial authorities on a work programme to give effect to the NPSFM is encouraged.</p>	<p>No response is required. Collaboration with the regional council on a work programme to give effect to the NPSFM is encouraged.</p>



# Appendices

## A Relevant excerpts from the New Zealand Coastal Policy Statement 2010

### Objective 1

### Objective 3

### Policy 2

### Policy 4

### Policy 21

### Policy 22

### Policy 23

### Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;
- protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and
- maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.

### Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tāngata whenua as kaitiaki and provide for tāngata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tāngata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tāngata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and recognising and protecting characteristics of the coastal environment that are of special value to tāngata whenua.

## **Policy 2: The Treaty of Waitangi, tāngata whenua and Māori**

In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:

- a. recognise that tāngata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;
- b. involve iwi authorities or hapū on behalf of tāngata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tāngata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- c. with the consent of tāngata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- d. provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;
- e. take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
  - i. where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
  - ii. consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
- f. provide for opportunities for tāngata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
  - i. bringing cultural understanding to monitoring of natural resources;
  - ii. providing appropriate methods for the management, maintenance and protection of the taonga of tāngata whenua;
  - iii. having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non commercial Māori customary fishing;
- g. in consultation and collaboration with tāngata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tāngata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
  - i. recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and

- ii. provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

## **Policy 4: Integration**

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- a. co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:
  - i. the local authority boundary between the coastal marine area and land;
  - ii. local authority boundaries within the coastal environment, both within the coastal marine area and on land; and
  - iii. where hapū or iwi boundaries or rohe cross local authority boundaries;
- b. working collaboratively with other bodies and agencies with responsibilities and functions relevant to resource management, such as where land or waters are held or managed for conservation purposes; and
- c. particular consideration of situations where:
  - i. subdivision, use, or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs; or
  - ii. public use and enjoyment of public space in the coastal environment is affected, or is likely to be affected; or
  - iii. development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change; or
  - iv. land use activities affect, or are likely to affect, water quality in the coastal environment and marine ecosystems through increasing sedimentation; or
  - v. significant adverse cumulative effects are occurring, or can be anticipated.

## **Policy 21: Enhancement of water quality**

Where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water-based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities, give priority to improving that quality by:

- a. identifying such areas of coastal water and waterbodies and including them in plans;
- b. including provisions in plans to address improving water quality in the areas identified above;

- c. where practicable, restoring water quality to at least a state that can support such activities and ecosystems and natural habitats;
- d. requiring that stock are excluded from the coastal marine area, adjoining intertidal areas and other waterbodies and riparian margins in the coastal environment, within a prescribed time frame; and
- e. engaging with tāngata whenua to identify areas of coastal waters where they have particular interest, for example in cultural sites, wāhi tapu, other taonga, and values such as mauri, and remedying, or, where remediation is not practicable, mitigating adverse effects on these areas and values.

## **Policy 22: Sedimentation**

- 1. Assess and monitor sedimentation levels and impacts on the coastal environment.
- 2. Require that subdivision, use, or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water.
- 3. Control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry.
- 4. Reduce sediment loadings in runoff and in stormwater systems through controls on land use activities.

## **Policy 23: Discharge of contaminants**

- 1. In managing discharges to water in the coastal environment, have particular regard to:
  - a. the sensitivity of the receiving environment;
  - b. the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and
  - c. the capacity of the receiving environment to assimilate the contaminants; and:
  - d. avoid significant adverse effects on ecosystems and habitats after reasonable mixing;
  - e. use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and
  - f. minimise adverse effects on the life-supporting capacity of water within a mixing zone.
- 2. In managing discharge of human sewage, do not allow:
  - a. discharge of human sewage directly to water in the coastal environment without treatment; and
  - b. the discharge of treated human sewage to water in the coastal environment, unless:
    - i. there has been adequate consideration of alternative methods, sites and routes for undertaking the discharge; and
    - ii. informed by an understanding of tāngata whenua values and the effects on them.

3. Objectives, policies and rules in plans which provide for the discharge of treated human sewage into waters of the coastal environment must have been subject to early and meaningful consultation with tāngata whenua.
4. In managing discharges of stormwater take steps to avoid adverse effects of stormwater discharge to water in the coastal environment, on a catchment by catchment basis, by:
  - a. avoiding where practicable and otherwise remedying cross contamination of sewage and stormwater systems;
  - b. reducing contaminant and sediment loadings in stormwater at source, through contaminant treatment and by controls on land use activities;
  - c. promoting integrated management of catchments and stormwater networks; and
  - d. promoting design options that reduce flows to stormwater reticulation systems at source.
5. In managing discharges from ports and other marine facilities:
  - a. require operators of ports and other marine facilities to take all practicable steps to avoid contamination of coastal waters, substrate, ecosystems and habitats that is more than minor;
  - b. require that the disturbance or relocation of contaminated seabed material, other than by the movement of vessels, and the dumping or storage of dredged material does not result in significant adverse effects on water quality or the seabed, substrate, ecosystems or habitats;
  - c. require operators of ports, marinas and other relevant marine facilities to provide for the collection of sewage and waste from vessels, and for residues from vessel maintenance to be safely contained and disposed of; and
  - d. consider the need for facilities for the collection of sewage and other wastes for recreational and commercial boating.

## **B National values of fresh water: excerpt from preamble to NPSFM**

### **National values of fresh water**

Water is valued for the following uses:

- domestic drinking and washing water
- animal drinking water
- community water supply
- fire fighting
- electricity generation
- commercial and industrial processes
- irrigation
- recreational activities (including waka ama)
- food production and harvesting eg, fish farms and mahinga kai
- transport and access (including tauranga waka)
- cleaning, dilution and disposal of waste.

There are also values that relate to recognising and respecting fresh water's intrinsic values for: safeguarding the life-supporting capacity of water and associated ecosystems; and sustaining its potential to meet the reasonably foreseeable needs of future generations. Examples of these values include:

- the interdependency of the elements of the freshwater cycle
- the natural form, character, functioning and natural processes of waterbodies and margins, including natural flows, velocities, levels, variability and connections
- the natural conditions of fresh water, free from biological or chemical alterations resulting from human activity, so that it is fit for all aspects of its intrinsic values
- healthy ecosystem processes functioning naturally
- healthy ecosystems supporting the diversity of indigenous species in sustainable populations
- cultural and traditional relationships of Māori with fresh water
- historic heritage associations with fresh water
- providing a sense of place for people and communities.

All the values in both lists are important national values of fresh water.