

Agenda Memorandum

Date 19 November 2019



**Memorandum to
Chairperson and Members
Policy and Planning Committee**

**Subject: Annual report on the Progressive
Implementation Programme: National
Policy Statement for Freshwater
Management**

Approved by: A D McLay, Director – Resource Management

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Purpose

1. The purpose of this memorandum is to present for Members' information the annual report on the implementation programme for the *National Policy Statement for Freshwater Management 2014* (NPS-FM) for the 2018/2019 financial year.

Executive summary

2. Under the *Resource Management Act 1991* (RMA), regional policy statements and plans must give effect to any national policy statement.
3. The NPS-FM sets out national direction on freshwater objectives under the RMA.
4. Where regional councils cannot fully implement the NPS-FM by 31 December 2015, Policy E1 of the NPS-FM requires the Council to prepare and annually report on a progressive implementation programme. The Council's current progressive implementation programme was reviewed and adopted in November 2018.
5. The content of this memorandum gives effect to the Policy E1 reporting requirements of the NPSFM. Key highlights for the 2018/2019 financial year are as follows:
 - on the ongoing engagement, research, investigations and information gathering underpinning the development of a Proposed Freshwater and Land Plan continued, including the setting of regional targets for swimmable rivers, further work and investigations on the setting environmental flow limits alignment with *National Planning Standards*
 - establishment of the Wai Māori working group, comprising of iwi and hapū representatives, to inform and contribute to the review of the Freshwater Plan
 - continued development of freshwater quality accounting system. Development of the freshwater quality accounting system will continue to be a work in progress, at

least in the short term, to develop new programmes and amend existing programmes to meet new NPS-FM and NOF monitoring requirements for freshwater quality

- 256 consents were granted pursuant to the policies of the Freshwater Plan and the NPS-FM transitional policies relating to freshwater quality and quantity
- 70 farm dairy effluent discharge consents were granted pursuant to existing regional plans and the *Requirements for Good Farm Management* document. Through the consenting process, farm dairy effluent systems are now generally required to divert effluent to land, i.e. 96% of the consent were approved subject to discharging to land or subject to conditions that the farm dairy effluent disposal would (in full or in part) be discharged to land after a transition period.
- Council and farmers on intensively farmed land continue to progress stock exclusion and riparian planting on the ring plain and coastal terraces. As at 30 June 2019, 87% of riparian plan streams are now fenced and 74% protected by vegetation (where recommended)
- Development of a web-based farming portal setting out good management practices and farm environment plans.

Recommendations

That the Taranaki Regional Council:

- a) receives this memorandum entitled *Annual report on the Progressive Implementation Programme: National Policy Statement for Freshwater Management*; and
- b) notes the progress on the implementation of the NPS-FM for the 2018/2019 financial year.

Background

6. Freshwater is one of our region's most valuable and important resources. The NPS-FM was first adopted in 2011, with amendments subsequently adopted on 1 August 2014 and 7 September 2017.
7. The NPS-FM sets national directions under the RMA for improving or maintaining water quality and protecting important ecosystems in our lakes, rivers, streams and aquifers. Under sections 62(3) and 67(3)(a) of the RMA, regional policy statements and regional plans must give effect to the NPS-FM. The NPS-FM does not specify exactly how it should be implemented, or how policy statements and plans should be amended. That is for the Council and community to determine, reflecting regional circumstances.
8. In September 2019, the Government released a proposed amended NPS-FM, proposed *National Environmental Standards for Freshwater Management* (NES-FM) and proposed *Stock Exclusion Regulations* (SER). This *Annual report on the Progressive Implementation Programme: National Policy Statement for Freshwater Management* relates to a requirement of the NPS-FM 2014 and is separate from any proposed new requirements.
9. The implementation of the NPS-FM in the Taranaki region does not start from a blank canvas. Of note, state of the environment reporting shows that Council programmes and activities have been generally efficient and effective in meeting NPS-FM objectives and

policies for freshwater quality and quantity. For example, Council monitoring shows that overall surface water and groundwater quality in the region is in the A or B band for most attributes in Appendix 2 of the NPS-FM, and is being maintained or is improving.

10. Notwithstanding the above, the NPS-FM contains significant new and additional concepts and elements relating to plan development, limit setting and processes that councils must give effect to over time. Accordingly, in accordance with the NPS-FM, the Council has until 31 December 2025 to implement the NPS-FM (Policy E1(b) of the NPS-FM), and until 31 December 2030 if it considers that meeting the earlier date would result in lower quality planning or it would be impracticable to complete implementation of a policy by that date (Policy E1(ba) of the NPS-FM).¹
11. Pursuant to E1(c) of the NPS-FM, where regional councils cannot fully implement the NPS-FM by 31 December 2015, i.e. by having an operative plan (post appeals/Environmental Court), they must prepare a progressive implementation programme for giving effect to the NPS-FM.
12. Policy E1 of the NPS-FM reads as follows:
 - "a) This policy applies to the implementation by a regional council of a policy of this national policy statement.*
 - b) 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 2025**.*
 - ba) A regional council may extend the date in Policy E1 (b) to **31 December 2030** if it considers that:
 - i) meeting that date would result in lower quality planning; or*
 - ii) it would be impracticable for it to complete implementation of a policy by that date.**
 - c) Where a regional council is satisfied that it is impracticable for it to complete implementation of a policy fully by 31 December 2015, the council may implement it by a programme of defined time-limited stages by which it is to be fully implemented by 31 December 2025 or 31 December 2030 if Policy E1 (ba) applies.*
 - d) Any programme of time-limited stages is to be formally adopted by the council by 31 December 2015 and publicly notified.*
 - e) 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.*
 - f) Any programme adopted under Policy E1 c) of the National Policy Statement for Freshwater Management 2011 or Policy E1 c) of the National Policy Statement for Freshwater Management 2014 by a regional council is to be reviewed, revised if necessary, and formally adopted by the regional council by 31 December 2015, and publicly notified.*
 - g) Every regional council must, at intervals of not more than five years, compile and make available to the public a review of the improvements to specified rivers and lakes, and primary contact sites, made in giving effect to Policy A5."*

¹ Note Government proposals currently being consulted on to amend this clause of the NPS-FM (amongst other things) to require all plans (as appropriate) to give full effect to the NPS-FM by 2025.

13. Members may therefore recall, that at the Policy and Planning Committee meeting of 20 November 2018, Council adopting and agreeing to publicly notify a revised version of its progressive implementation programme (PIP).²

Progressive implementation programme for Taranaki 2018

14. The Council's PIP identifies key projects and timelines for implementing the PIP and was published on the Council's website (refer <https://www.trc.govt.nz/assets/Documents/Plans-policies/FreshwaterPlan/PIP2015.pdf>). Key projects and activities for implementing the NPS-FM in Taranaki are grouped under the following headings:
- amendments to regional policy statements and plans
 - implementation of current plans and assessment of resource consents
 - implementation of other supporting initiatives that sit outside statutory documents and/or RMA consenting processes.
15. As noted in the PIP, significant elements of the NPS-FM are already being given effect to through existing and ongoing Council programmes and activities. Of particular note, through the current Freshwater Plan and associated resource consenting process, Council continues to assess and make decisions on applications relating to freshwater resources. In doing so, Council is giving effect to most NPS-FM water quality and quantity objectives and policies of the NPS-FM.
16. Council also undertakes and implements a range of other initiatives that, while sitting outside statutory documents and/or the requirements of the RMA, nevertheless give effect to various NPS-FM objectives and policies. They include:
- implementation of extension programmes such as the Taranaki Riparian Programme, the Sustainable Hill Country Programme, the Wetlands Programme and the Key Native Ecosystems Programme
 - general liaison, advice and education with resource users to promote behavioural changes and best practice that also support the maintenance and enhancement of freshwater quality in the region and the protection of wetlands
 - tangata whenua participation on Council standing committees relating to resource management
 - economic instruments and other support and assistance
 - implementation, review, and adoption of freshwater monitoring activities to assess and report on freshwater issues and trends in the region. A number of new or amended monitoring programmes are required to give effect to a number of new concepts and requirements set out in the NPS-FM, particularly in association with monitoring the National Objectives Framework and the development and refinement of accounting systems for freshwater quality and quantity.
17. The PIP recognises that the key vehicle for implementing and giving full effect to the NPS-FM (particularly in relation to incorporating the National Objectives Framework) is the Council's review and amendments to existing planning documents, particularly the

² Following amendments to the NPS-FM in 2017, councils were required to review, revise (if necessary) and formally adopt revised PIPs by 31 December 2018, and publicly notified it.

Regional Freshwater Plan for Taranaki and Regional Soil Plan for Taranaki. The PIP identifies four key phases relating to the plan reviews. They are:

- **Preliminary community and stakeholder engagement:** This phase relates to early consultation with key stakeholders on freshwater management issues and major proposed changes, the establishment of a stakeholder focus group, the commissioning of research and preparation of a suite of technical documents and position papers, leading to development and consultation on a draft Plan.

This phase has been completed.

- **Further investigations and engagement to develop a Proposed Plan:** This phase relates to ongoing information gathering, investigations, engagement and consultation to work through issues identified through the draft Plan process, leading to the development of a Proposed Plan.

As appropriate, throughout this phase, Council will endeavour to respond and, if necessary, amend its draft planning documents to give effect to new or proposed national policy initiatives such as the *National Policy Statement for Urban Development Capacity* (2016), amendments to the RMA (2017), amendments to the NPS-FM (2017 and 2019), including incorporation of Te Mana o te Wai and amendments to NOF provisions, attributes and values (2017 and 2019), promulgation of the *National Environmental Standard for Plantation Forestry* (2017), national requirements for councils to set draft and final regional targets for swimmability (2018), plus Government proposals recently released as part of the *Essential Freshwater* package (NES-FM, NPS-FM and SER).

This phase is in progress.

- **Proposed Plan under Schedule 1 of the RMA:** This phase relates to initiating the formal RMA process of publicly notifying a Proposed Plan, seeking public submissions/ further submissions, and holding a hearing of submissions prior to the Council releasing its formal decisions.

This phase is not yet due to be commenced.

- **Appeals and final adoption of the Plan:** Any person who has made a submission on the Proposed Plan can appeal Council's decision to the Environment Court. If no appeals are lodged the Council can immediately make the plan operative. If appeals are lodged then the Council will enter into mediation or Environment Court hearings. Only after all appeals are resolved, and the Plan amended accordingly, can the Council then make the Plan operative.

This phase is not yet due to be commenced.

18. In accordance with the PIP's indicative timeframe, Council is currently in Phase 2 with the expectation that a Proposed Natural Resources Plan (Proposed Plan), that also addresses freshwater management in Taranaki will be publicly notified under Schedule 1 of the RMA by **December 2020**, but sooner if practicable. However, due to significant new changes likely to be required in the Proposed Plan through new Government requirements arising from the proposed NES-FM, proposed amended NPS-FM and SER (Government decisions expected in the first half of 2020) it is likely that a Plan will now not be notified until at least 2021.

Annual report on NPS-FM implementation 2018/2019

19. Under Policy E1(e) of the NPS-FM, Council must annually report on the extent to which the PIP has been implemented. Set out below is a summary of and discussion on the key activities and milestones achieved in 2018/2019 in relation to the implementation of the PIP. The content of this memorandum gives effect to the Policy E1(e) reporting requirement.

Implementing NPS-FM through regional plan reviews

20. Progress on the development of the Proposed Plan, including the underpinning policy positions, continued in 2018/2019. Of particular note, in 2018/2019, Council undertook the following activities:

- In November 2018, the Council established the Wai Māori working group, comprising of iwi and hapū representatives and independently facilitated by Sean Zieltjes. The purpose of this group is to inform and contribute to the review of the Freshwater Plan. It meets on an as need be basis (but generally at 4 to 6 week intervals). It met three times during the financial year and will continue to meet over the 'life' of the Freshwater Plan review.
- In May 2019, commissioned Rawiri Faulkner of Tutaiao Limited, to review and present advice on the expression of tikanga Māori principles and values appropriate for RMA planning documents, including the Proposed Plan.
- In December 2018, the Council adopted its regional targets for swimmable rivers and lakes for the Taranaki region that will ultimately need to be included in a revised Plan.
- In July 2018 Dr Ian Jowett completed a Council commissioned study, reviewing minimum flows and water allocation to help inform decision making around environmental flow limits.
- The Jowett report was circulated and workshopped with Iwi o Taranaki and other stakeholders in November 2018.
- The Council has commissioned Dr Jowett to undertake further investigations and review of environmental flow limits in Taranaki with a particular focus on the Waitara and Whenuakura catchments - which have been identified as larger river which potentially requires-specific allocation limit (rather than meeting a regional default allocation limit). This work will be undertaken in the summer of 2019/2020.
- Aligned draft Plan provisions with the Government's National Planning Standards, which were promulgated in April 2019.
- Incorporated Air Quality Plan review into the regional freshwater and soil plan reviews. Work commenced on integrating freshwater, soil and air plan provisions into a combined Proposed Natural Resources Plan.
- Continued work on draft Plan provisions to, where practicable, incorporate the results of further engagement and investigations. This included evaluating and responding to national freshwater initiatives (and their implications for Council and draft Plan provisions).
- Continued work on the Section 32 RMA costs and benefits assessment for the Proposed Plan, including further work, investigations and research on the setting and monitoring of water quality and quantity limits.
- As part of its ongoing liaison and communication to tangata whenua and stakeholders, the Council has forwarded two comprehensive updates on the

Freshwater Plan review. The latest update of the 2018/2019 year can be found here: <https://www.trc.govt.nz/environment/core-documents/regional-fresh-water-plan/water-and-soil-plan-review/>.

Implementing the NPS-FM through the resource consenting process

21. Through the current Freshwater Plan and associated resource consenting process, in 2018/2019 Council continued to assess and make decisions on applications relating to freshwater resources.
22. In 2018/2019, 286 consents were granted, 258 (or 90%) of which related to freshwater. All these consents were granted pursuant to the policies of the Freshwater Plan, which includes NPS-FM transitional policies relating to freshwater quality and quantity.
23. Of particular note, 70 farm dairy effluent consents were processed in 2018/2019. Sixty-seven of these or 96% of those were approved subject to discharging to land or subject to conditions that the farm dairy effluent disposal would (in full or in part) be discharged to land after a transition period. The switch to land-based disposal (which is already well underway in Taranaki) will occur within reasonable timeframes as consents come up for renewal. By 30 June 2019, 61% of the 1,649 farm dairy effluent systems now discharge to land.

Implementing the NPS-FM through other freshwater programmes

24. In 2018/2019, Council implemented a range of non-regulatory and supporting initiatives that, while sitting outside statutory documents and/or the requirements of the RMA, nevertheless gave effect to various NPS-FM objectives and policies. Highlights are as follows:
 - Development of a web-based farming portal setting out good management practices and farm environment plans. This 'farm hub' can be found here: <https://www.trc.govt.nz/environment/farmhub/good-farming-practice/>
 - Ongoing progress in stock exclusion and riparian planting contributes to giving effect to objectives A1 and A2 and policies A6 and A7 [Water quality] of the NPS-FM.
 - 100 riparian plans covering 453 kilometres of stream bank prepared that financial year (363 km the preceding year). Plan recommendations propose 216 kilometres of riparian management with the balance of 237 kilometres already being adequately protected.
 - As at 30 June 2019, 2,889 riparian management plans have been prepared recommending the planting of 6,293 km and fencing of 7,190 km of stream banks on the ring plain and coastal terraces. At 30 June 2019, 49.4% of the recommended planting (up from 45.7% in the preceding year) and 70.2% of the recommended fencing (up from 68.3% in 2015/2016). New and existing works means 86.5% of riparian plan streams are now protected by fencing and 73.7% by vegetation where recommended.
 - 539,919 riparian plants were sold to 1,209 plan holders at cost. As at 30 June 2019, 5.6 million riparian plants have been sold to riparian plan holders.
 - Tangata whenua representation and contribution to resource management decision making on the Policy and Planning and Consents and Regulatory committees contributes to giving effect to Objective D1 and Policy D1 [Tangata whenua] of the NPS-FM.

- Ongoing implementation and refinement of freshwater monitoring activities to give effect to a number of new concepts and requirements set out in the NPS-FM, particularly in association with monitoring the National Objectives Framework and the development and refinement of accounting systems for freshwater quality and quantity. Of particular note, in 2018/2019, the Council:
 - continues to update its freshwater quantity accounting system. The spreadsheet based system sets out, for all Taranaki rivers and streams with consented takes, the amount of allocable water, minimum flows and the remaining available water for consumptive uses. The freshwater quantity accounting system is a live document that is updated when water permits are surrendered and/or new permits issued
 - amended the Periphyton monitoring programme as part of fulfilling the requirements of the amended NPS-FM and which specified periphyton as one of the compulsory ecosystem health attributes for councils to monitor³
 - developed a five-year strategic plan for continuous water quality monitoring programme with recommendation to install a continuous water quality monitoring probe at each of the proposed FMUs in the region. The first instalment of the continuous water quality probe was completed in August 2019 at Waingongoro River at SH45
 - reviewed the existing instream structure programme, and regional register of weirs, dams and other barriers to fish passage in Taranaki, and made appropriate changes and recommendations to improve the effectiveness of the programme. The revised instream structure programme provides the status of each fish passage structures and its monitoring regime, as well as recommended actions for remediating or non-compliant fish passes. This is in line with the requirements of the new draft NPS-FM for regional councils to collect, maintain, and published records of new and (known) existing instream structures and assess their likely impact on fish passage and river connectivity
 - reviewed the existing state of the environment lake programme to meet the requirements of NPS-FM to monitor representative lakes in the region and incorporate the compulsory values of lake attributes to monitor which includes phytoplankton, total phosphorus, total nitrogen, ammonia, E.coli and cyanobacteria
 - undertook ongoing state of the environment monitoring to assess and report on freshwater issues and trends in the region.
- Set and published final Regional Targets for Swimmable Rivers and Lakes for the Taranaki Region in November 2019.

25. Table 1 below sets out a summary of the key activities and milestones in the implementation of the NPS-FM relating to the development of a Proposed Plan.

Table 1: Key activities giving effect to the NPS-FM 2018/2019

³ Prior to the changes the Council had an existing SEM Periphyton monitoring programme that had been operative since 1996 collecting data at 21 sites around the region, conducted every spring and summer including annual summer chlorophyll-a sampling and reported biannually against existing criteria. The new NPS-FM Periphyton monitoring programme is more rigorous requiring monthly monitoring regime regardless of weather or flow conditions at sites representative of each freshwater management unit, with the additional nutrient sampling to be undertaken concurrently with chlorophyll-a sampling, and more stringent criteria.

Key activities	Gives effect to NPS-FM provisions
Regional plan reviews	Objective AA1 and Policy AA1 [Te Mana o te Wai] Objectives A2 and A3 and policies A1, A2, A3, A5 and A6 [Freshwater quality] Policies B1, B2, B3 and B6 [Freshwater quantity] Objective C1 and Policy C1 [Integrated management] Objective CA1 and policies CA1, CA2, CA3 and CA4 [National Objectives Framework]
Resource consenting process	Objectives A1, A2, and A4, and policies A4 and A7 [Freshwater quality] Objectives B1, B2, B3, B4 and B5, and policies B4, B5, B7, and B8 [Freshwater quantity] Objective C1 and Policy C1 [Integrated management] Objective D1 and Policy D1 [Tangata whenua roles and interests]
Other freshwater programmes	Objectives A1 and A2 and policies A6 and A7 [Freshwater quality] Objective CB1 and policies CB1, CB2, CB3 and CB4 [Monitoring plans] Objective CC1, and policies CC1 and CC2 [Accounting] Objective D1 and Policy D1 [Tangata whenua] Policy E1 [Progressive implementation programme]

Other matters

26. As noted previously, in September 2019, the Government released its *Essentials Freshwater* package. These Government proposals are wide-ranging and significant in terms of their potential impact on the region, its communities and, indeed, the policy scope for freshwater management overall.
27. Consultation on the Essential Freshwater package has just ended and shortly a independent advisory panel will be constituted to consider submissions and provide a report and recommendations to Ministers. Ministers will consider the report and recommendations before deciding whether or not to proceed with the policy proposals or make changes. Government's decisions on the Essential Freshwater package are not likely to be known to next year.
28. The PIP states that the Council will "...Notify a Proposed Freshwater and Land Management Plan for Taranaki under Schedule 1 of the RMA by December 2020". Given the Government's timelines and the policy implications of their proposals, there is a significant risk that this deadline may no longer be achievable with Council unable to pre-empt Government decisions that will need to be subsequently incorporated into new regional planning provisions. Government proposals as they now stand will involve a significant change in Taranaki's current freshwater management regime.

Decision-making considerations

29. Part 6 (Planning, decision-making, and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the Act.

Financial considerations—LTP/Annual Plan

30. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

31. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991*, the *Local Government Official Information and Meetings Act 1987*, and the *Biosecurity Act 1993*.

Iwi considerations

32. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Legal considerations

33. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.