

# ***SUMMARY***

## *Draft Issues and Options for Bay of Plenty Regional Policy Statement Land and Freshwater chapters*



The Bay of Plenty Regional Policy Statement (RPS) Water Quality and Land Use, and Water Quantity provisions were made operative on 1 October 2014. This document provides review of the operative provisions, and identifies draft issues and options for change, particularly to implement the requirements of the National Policy Statement for Freshwater Management 2020 (NPSFM). Tangata whenua engagement, community engagement and further development and integration will follow before recommendations are made to Council for decision in 2024.

The RPS has one Water Quantity Objective 30 with eight supporting policies which rely on Regional Natural Resources Plan changes to be implemented and this has not happened yet. Implementation was progressing under Proposed Change 9 (Region wide Water Quantity) to the RNRP (PC9) which was to be the first of a two-staged approach. However, PC9 was withdrawn in February 2020. RPS water quantity issues that still need to be addressed include development of allocation limits and instream flows for consenting, deficiencies in data availability, improving accuracy and modelling, and models for estimating efficient use relied on for consenting. These are being addressed through the current RNRP change process. Water Quantity Objective 30 and its corresponding policies are still relevant but need refinements to properly give effect to new national policy direction, particularly the NPSFM, since the RPS was made operative.

The RPS has three Water Quality and Land Use Objectives 27, 28 and 29, with eight supporting policies. Objective 28 relates to catchments at risk and relies on RNRP changes to give effect to Policies WL 2B – WL 6B. Plan Change 10 (Lake Rotorua Nutrient Management) to the RNRP gives effect to Objective 28 and its policy direction, but only for the Lake Rotorua groundwater catchment. No RNRP changes have been progressed for the other listed catchments at risk being Lakes Rotoiti, Rotoehu, Rotomā, Ōkaro, Ōkāreka, Ōkātina, Tarawera, Tikitapu, Rotokakahi, Rerewhakaaitu and Rotomahana. Objective 28 is no longer appropriate as the catchments at risk approach is superseded by the NPSFM approach that sets out the Te Mana o te Wai (TMotW) hierarchy of obligations, freshwater management units (FMUs) and National Objectives Framework (NOF) requirements.

More concerted effort is necessary to implement region wide Objectives 29 Land Use Activities. Effective implementation requires overlaps in regulation of land and soil disturbance activities by regional and district plans to be addressed. The Resource Management Reform has signalled a move to single region wide plans (i.e., RPS, regional/district plans combined into one). If / when this occurs duplication and overlaps will be more easily addressed.

Water quality monitoring shows more concerted effort is required to maintain or enhance the mauri of the region's water and values associated with its required use and protection under Objective 27. Under RPS Policy IW 2B 'Recognising matters of significance to Maori' only tangata whenua can identify their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. In 2018, 80% of iwi perceptions survey respondents considered the mauri of natural resources in their rohe had degraded in the previous 5 years. The earlier 2016 iwi perceptions survey had similar results.

While region wide Objective 27 is still broadly relevant, particularly for iwi Māori, RPS changes required to implement the NPSFM (e.g. setting of long-term visions for each FMU) may make this broad objective unnecessary. Pending changes include protecting significant values of outstanding water bodies and implementation the TMotW hierarchy of obligations. Objective 27 needs to be considered in conjunction with these as they are developed. Care is needed to demonstrate the intervention logic for a separate region wide water quality objective. It is noted the Proposed Otago RPS includes a region wide Fresh water Objective LF-FW-O8 (separate to the FMU specific vision objectives) and much of its policy direction guides subsequent regional plan development.

Bay of Plenty Regional Council is simultaneously preparing freshwater related RPS and RNRP changes to be notified in July 2024, to implement the NPSFM. This must include mandatory content required by the NPSFM to address regionally significant resource management issues for land and freshwater and relevant issues of resource management significance to iwi authorities. All other RPS changes are optional. The freshwater related changes should not simply repeat the NPSFM content (particularly the objective, fifteen policies, and regional plan directives) but instead provide more explicit regionally appropriate policy direction and context.

The NPSFM requires RPS changes to:

- 1 Include an objective setting out how the management of freshwater in the region will give effect to TMotW (NPSFM 3.2(3));
- 2 Include objectives setting long-term visions for freshwater in FMUs (or part of an FMU) expressing what communities and tangata whenua want it to be like in the future (NPSFM 3.3);
- 3 Provide for the integrated management of the effects of the use and development of land on freshwater; and
- 4 Provide for the integrated management of the effects of the use and development of land and freshwater on receiving environments.

The NPSFM also requires Council to identify and protect the significant and outstanding values of outstanding water bodies, and it may be appropriate to include this in the RPS.

Draft visions and associated RPS objectives for FMUs are drafted (see FMU story documents). An objective that sets out the approach to implementing TMotW is being developed, which will clarify what is included in the first and second priorities, and commit to applying the six principles. These will be carefully considered and integrated with other recommendations below.

Integration considerations also apply to the operative RPS Rangitāiki River objectives and policies and proposed Kaituna River provisions (i.e. Proposed Change 5 (Kaituna River)). These have a strong freshwater focus which should be provided for in the FMU visions for those catchments.

It is important the RPS strengthens key land and freshwater provisions requiring implementation through RNRP and district plan changes. The RPS water quantity, water quality and land use issues are more pressing today since the RPS became operative in 2014, because they have not been implemented by RNRP changes (except for PC10) the general thrust of most RPS water quantity, quality and land use policies are recommended to be retained.

The operative policy framework around water allocation limits and instream minimum flows lacks sufficiently strong direction about how freshwater must be managed in relation to these limits, particularly in full or over allocated catchments subject to greater growth and development pressures. Likewise, water quality is degraded or degrading in some rivers, lakes and estuaries, and the current policy and plan framework has been insufficient to stem this.

Key recommendations and amendments proposed following this review of the RPS Water Quantity, and Water Quality and Land Use provisions, NPSFM requirements, and National Planning Standards requirements include:

- 1 Combine the two existing chapters in to one Land and Freshwater Domain that is required by the National Planning Standards.
- 2 Add provisions required by the NPSFM (listed above).
- 3 Link the required Te Mana o te Wai objective (and policies) to all other RPS Land and Freshwater objectives.
- 4 Broaden Objective 29 to provide for the integrated management of the effects of the use and development of land on freshwater and receiving environments and link to relevant existing operative RPS integrated resource management policies.
- 5 Consider a new directive policy to prohibit further allocation beyond allocation limits, to constrain takes to provide for environmental flows, and phase out both water and nutrient over allocation.
- 6 New policy to enable the development of underdeveloped Māori land, treaty settlement lands, papakāinga and tangata whenua cultural uses, where limits on resource use to reduce nutrient losses to water, or water allocation limits may constrain this development.
- 7 Delete reference to water transfers in Policy WQ 1A.
- 8 New policy to give effect to NPSFM Policy 7 'Avoid loss of river extent and values.
- 9 Identify the significant and outstanding values of outstanding water bodies, accompanied by policy requiring the RNRP and district plans to include provisions to protect those values to give effect to NPSFM Policy 8 and clause 3.8(3)(d).
- 10 Stronger direction to establish water user groups particularly in over or fully allocated catchments.
- 11 New policy requiring Water Sensitive Design approaches for new urban development.
- 12 New policy promoting stormwater attenuation for large scale urban subdivision, land use change and development.
- 13 New policy requiring the RNRP and district plans to promote the restoration of natural inland wetlands and protect their extent and values from further loss.
- 14 Link/integrate with existing Urban Growth Management versatile land policies or with any new policy to give effect to the National Policy Statement for Highly Productive Land.
- 15 Better linkages and integration with other RPS policies (e.g. integrated resource management and iwi resource management) that contribute to achieving the Land and Freshwater objectives.
- 16 Not include additional RPS provisions to address the protection of trout, and instead rely on the regional plan for implementation of NPSFM Policy 10.
- 17 Combine existing monitoring Methods 21 and 30 into a new monitoring policy to give effect to NPSFM Monitoring Policies 13 and 14.
- 18 Review and amend references to specific RMA sections in provisions proposed to be retained following gazettal of the Natural and Built Environments Act.
- 19 Continue working to streamline and integrate provisions.
- 20 Retain and strengthen key land and freshwater policy provisions still requiring implementation through RNRP changes.
- 21 Integrate with existing Treaty Co-Governance provisions for the Rangitāiki and Kaituna River catchments. Most operative Rangitāiki River and Kaituna River catchment Treaty Co-Governance provisions have a strong water focus. Further RPS Treaty co-governance changes pending for the Tarawera and Tauranga Moana/harbour catchments will also prioritise protecting and restoring the mauri of water. The NPSFM visions must not be inconsistent with relevant Treaty Settlement legislation and should build on the work already undertaken by the co-governance partners in these catchments.

After Resource Management Reforms, many existing RPS policies that refer to specific RMA provisions will need to be amended to refer to and implement the Natural and Built Environments Act (NBA) but for now a wait and see approach is required. This is unlikely to be part of the freshwater related changes to be notified in 2024.

To achieve the RPS integrated management purpose the Land and Freshwater objectives can link to other RPS provisions (e.g. climate change and integrated resource management). The operative RPS structure delivers this by enabling relevant policies and methods to be linked to objectives in other topics or domains. The compulsory NPStds RPS format and structure allows for a continuation of this integrated approach. Unlike other topics the operative RPS Water Quantity and Water Quality and Land Use provisions don't do this, and it is recommended relevant linkages with existing RPS provisions are made in the Land and Freshwater objectives and policies.

Under the NPSFM 2020 Council must actively involve tangata whenua in the freshwater planning process to the extent they wish to be involved, enable the application of Mātauranga Māori to freshwater management, identify Māori freshwater values, and provide for mahinga kai values. Council has made efforts, and continues these efforts, to engage with tangata whenua to deliver on these NPSFM requirements. Notwithstanding this, the scope and quantity of work to implement the NPSFM within the statutory deadline of December 2024 is very large, and issues and options papers on all topics have had to progress while tangata whenua engagement is being sought or progressing. Existing information about tangata whenua values has been relied on. Policy options and assessments will be amended as appropriate in response to engagement in the next year leading up to decision making.