

Report 11.551
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Committee Te Upoko Taiao - Natural Resource Management Committee
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Plan Change 4 to the Regional Freshwater Plan and Plan Change 2 to the Regional Plan for Discharges to Land

1. Purpose

To inform the Committee that Plan Change 4 to the Regional Freshwater Plan and Plan Change 2 to the Regional Plan for Discharges to Land will amend the regional plans to give effect to policies A4 and B7 of the National Policy Statement on Freshwater Management (the NPS).

2. The decision-making process and significance

No decision is being sought in this report. The report is to inform the Committee of changes to our regional plans that are directed by the NPS in accordance with section 55 of the Resource Management Act.

3. Background

The NPS came into effect on 1 July 2011. The Resource Management Act requires regional plans to give effect to national policy statements. Giving effect to the entire NPS is a comprehensive and complex process that the Committee is currently working towards. It entails consultation, notification, submissions, hearings, decisions and appeals on the regional plan using the Schedule 1 process of the Resource Management Act.

Giving effect to policies A4 and B7 of the NPS is an interim requirement that takes a different approach than provided for in Schedule 1 of the Resource Management Act. Policies A4 and B7 of the NPS are given in Attachment 1 to this report. These NPS policies require regional councils to amend regional plans as directed by section 55 of the Resource Management Act to the extent needed to ensure effect is given to policies A4 and B7. Section 55 of the Resource Management Act directs regional councils to make these changes without using the Schedule 1 process.

Policy A4 of the NPS is directed at applications for discharges with adverse effects on fresh water. Discharges to water and discharges to land that result in contaminants entering water both have the potential for adverse effects on fresh water. Hence, both the Regional Freshwater Plan and the Regional Plan for Discharges to Land are being amended to address Policy A4. Policy B7 of the NPS is directed at water allocation with adverse effects on fresh water associated with taking, using, damming or diverting water, or draining any wetland. These matters fall within the scope of the Regional Freshwater Plan and it is being amended to give effect to Policy B7.

4. Policies A4 and B7

Policies A4 and B7 of the NPS are given in Attachment 1. Policy A4 identifies matters that a consent authority must have regard to when considering consent applications for discharges to water and discharges to land. Policy B7 identifies matters that a consent authority must have regard to when considering resource consent applications involving the allocation of water. Both policies require regard to be given to:

- The extent to which the discharge or activity 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
- 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 or activity would be avoided.

Both NPS policies apply to new discharges or activities; and a change or increase in any discharge or a change or increase in the character, intensity or scale of any established activity.

5. Are the plan changes necessary?

The NPS requires regional plans to be amended “to the extent needed to ensure the plans include the policies A4 and B7”. Both the Regional Freshwater Plan and the Regional Plan for Discharges to Land address some elements of both policies A4 and B7. For example, policies 6.2.1 and 6.2.3 of the Regional Freshwater Plan limit the effects of allocating water by establishing water allocation limits. Staff practice is to recommend declining consent applications once these limits are exceeded. While incorporating policy B7 into the Regional Freshwater Plan will not change staff practice, the new policy will reinforce our current approach.

While several policies in our plans could be said to give effect to policies A4 and B7 of the NPS, there are some elements of the NPS policies that are not specifically addressed in regional plan policies. To ensure our regional plans do give effect to policies A4 and B7 in their entirety, it will be appropriate to include these policies in the Regional Freshwater Plan and the Regional Plan for Discharges to Land so that all the relevant matters identified in the two NPS policies are considered when resource consent applications are made. The parts

of policies A4 and B7 of the NPS in italics will be included in the Regional Freshwater Plan and the Regional Plan for Discharges to Land.

6. What are the implications of the plan changes

Once inserted in the Regional Freshwater Plan, policies A4 and B7, will apply to any resource consent application that Greater Wellington receives for discharges to water; or the taking, using, damming or diverting of fresh water or draining of any wetland. Policy A4 will also apply to any resource consent application for discharges to land that may enter water once inserted in the Regional Plan for Discharges to Land.

Policies A4 and B7 only apply to new discharges or activities; or a change or increase to an existing discharge or activity. This means resource consent applications for a new discharge or activity; or a change or increase in any discharge; or a change or increase *in the character, intensity or scale of any established activity* must consider the new policies.

Some hypothetical examples of resource consent applications that the new policies could apply to include:

- Application for a new resource consent to take water for irrigation purposes
- Application for an increased quantity of sewage to be discharged as part of a resource consent renewal for sewage overflows in wet weather conditions
- Application for a new resource consent for stormwater discharges
- Application for consent for a new landfill.

7. Communication

The new policies are directed by the NPS, which has undergone a separate public process of consultation and development. This report is for the Committee's information and no additional communication is needed.

The amendments to Plan Change 4 to the Regional Freshwater Plan and Plan Change 2 to the Regional Plan for Discharges to Land will be publicly notified at the beginning of February 2012. Such timing may allow for a suite of plan changes that includes the Transmission Gully Plan Change request to be made operative at the same time. The Committee will be provided with an oral report on the Transmission Gully Plan Change request at the Committee meeting.

8. Recommendations

That the Committee:

- 1. Receives the report.*
- 2. Notes the content of the report.*

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Attachment 1: Policies A4 and B7 of the National Policy Statement for Freshwater Management

Policies A4 and B7 of the National Policy Statement for Freshwater Management

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.”

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.”