

Title: Policy context of Ruamāhanga Whaitua
Committee decisions: the key resource
management directions

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Policy context of Ruamāhanga Whaitua Committee decisions: the key resource management directions

Contents

1.	Introduction	3
1.1.	Purpose	3
2.	Policy context of the Committee’s decisions	3
2.1.	Resource Management Act 1991.....	3
2.2.	Role of mana whenua	4
2.3.	National Policy Statement for Freshwater Management	5
2.4.	Water conservation order for Lake Wairarapa	6
2.5.	Summary of key RMA policy context	7
2.6.	Local Government Act 2002.....	7
2.7.	National Environmental Standard for Plantation Forestry	8
2.8.	Other changes to resource management instruments.....	8
3.	A policy package framework.....	8
3.1.	Parts of the policy package	8
	Appendix 1 – Key terms relevant to the NPS-FM	10

1. Introduction

1.1. Purpose

As the Ruamāhanga Whaitua Committee (the Committee) moves into the final stretch of work to land recommendations for inclusion in the Whaitua Implementation Programme (WIP), the purpose of this paper is to lay out the key policy context that these decisions sit within, including in managing activities that impact land and water under the Resource Management Act 1991.

2. Policy context of the Committee's decisions

In making recommendations in the WIP to address these questions, there are multiple statutory, community and strategic imperatives for the Committee to consider. This includes the Resource Management Act 1991 (RMA), the values and interests of mana whenua, and the Local Government Act 2002 (LGA).

2.1. Resource Management Act 1991

The following diagram shows the key instruments under the RMA that influence the work of the Whaitua Committee. These are shown in their approximate order of influence, from the Act (at the national scale) to resource consents (which typically operate at a property-type scale). While there are different types of legal relationships between the various instruments, a lower level planning instrument must, as least, not be inconsistent with that above.¹

Under the RMA, regional councils can set objectives for water quality in fresh and coastal waters in accordance with Part 2 (this sets out what 'sustainable use of physical and natural resources' means). The Committee's role is to specifically recommend objectives in the WIP for water bodies in the Ruamāhanga whaitua to be then included in the regional plan. From there, the planning instruments below need to be consistent with these objectives. For example, a district plan must give effect to a national policy statement and must not be inconsistent with a regional plan (RMA section 75).

With the exception of the National Policy Statement for Freshwater Management (NPS-FM), this report does not detail the specific roles and directions of current RMA planning instruments relevant to the Ruamāhanga whaitua as these are many and very detailed. The most directions from relevant RMA instruments are summarised in section 2.5.

¹ For a diagram that shows the legal relationship between key RM documents, see <http://www.qualityplanning.org.nz/index.php/plan-steps/writing-plans/linkages-between-key-documents-strategies-and-statutory-acknowledgements>

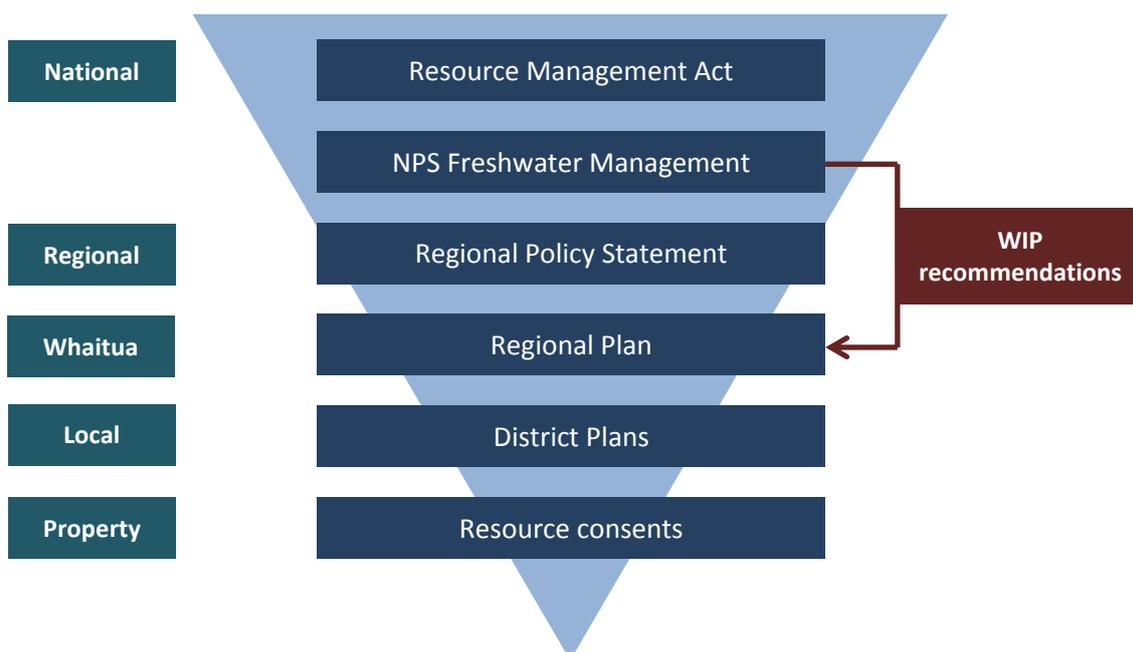


Figure 1. Key RMA instruments in water resource management (dark blue) and the scale they most affect (teal). Relationships between higher and lower level instruments differ but generally a lower level instrument must at least not be inconsistent with an instrument above.

2.2. Role of mana whenua

Partnership with Ngāti Kahungunu and Rangitane ki Wairarapa underpins the purpose of the Committee’s work. The Committee’s ToR states that the Committee will “operate in partnership with tangata whenua and develop recommendations guided by the five principles created as part of the Regional Plan Review process

- Ki uta ki tai – interconnectedness
- Wairuatanga – identity
- Kaitiakitanga – guardianship
- To matou whakapono – judgement based on knowledge
- Mahitahi – partnership (co-operative)”

A description of mana whenua values in the whaitua, developed over the course of the Committee’s work, is given here.²

² <http://www.gw.govt.nz/assets/Ruamahanga-Whaitua/Mana-whenua-values-04.09.17.pdf>

In giving effect to partnership with mana whenua, GWRC's Proposed Natural Resources Plan (PNRP) includes objectives to recognise, maintain and provide for Māori relationships with land and water (Objective O14), kaitiakitanga is provided for, including by active participation of mana whenua in planning (O15) and that the relationships of mana whenua with Ngā Taonga Nui a Kiwa are provided for (O16).³ The NPS-FM requires tangata whenua values to be identified and reflected in fresh water management (Objective D1). The New Zealand Coastal Policy Statement (NZCPS) directs that kaitiakitanga is recognised and provided for in the management of the coast, including protecting characteristics of the coastal environment that are of special value to tangata whenua (Objective 3).

2.3. National Policy Statement for Freshwater Management

Under section 67(3) of the RMA, regional councils must give effect to national policy statements. Under Policy E1 of the NPS-FM, regional councils have till 2025 to set objectives and limits for all freshwater.

The NPS-FM, most recently amended in August 2017, requires regional councils to set objectives to maintain or improve water quality in freshwater and to find ways to achieve this through making changes to their regional plans. The Committee's task is to identify freshwater objectives for the Ruamāhanga Whaitua and the methods to achieve these as recommendation for adoption into the Natural Resources Plan for the Wellington Region. To do so, the NPS-FM directs that freshwater management units (FMUs) are identified to incorporate all water bodies, groups of waterbodies and/or parts of water bodies, so that objectives, limits and methods are identified for all freshwater.

The NPS-FM provides a range of directions that must be given effect to through the whaitua process and more broadly. Some key parts of the NPS-FM that are highly relevant to the Committee's work are summarised briefly below and the full text of the NPS-FM can be found online.⁴ Those parts which are new to the most recent version of the NPS-FM are indicated with 'new'.

- Objective AA1 (new) and Policy AA1 (new)
Freshwater management must consider and recognise Te Mana o te Wai, the 'integrated and holistic well-being of a freshwater body', or the way that water is of value, has mana, in of itself. Te Mana o te Wai informs both how freshwater management planning is done and the outcomes of such planning, including to inform setting freshwater objectives and limits.

³ See Schedules B, C and D for Nga Taonga nui a Kiwa, sites of significance to mana whenua in fresh and coastal water and statutory acknowledgements in the PNRP http://www.gw.govt.nz/assets/Plans--Publications/Regional-Plan-Review/Proposed-Plan/Chapter-12-Schedules_2.pdf

⁴ http://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/nps-freshwater-amended-2017_0.pdf

- Objectives A1, A2 and A3 (new)
Fresh water quality must be maintained or improved, including in order to safeguard ecosystems and the health of people and communities, to protect places of significant value and to improve water that has been degraded by human activities. Water quality must be improved so more waterbodies are more suitable for swimming, more often.
- Objectives A4 (new) and B5 (new)
Within limits, communities are enabled to provide for their economic well-being through the use of water.
- Objectives B1, B2, B3 and B4
The take, use, damning and diverting of freshwater is sustainably managed in order to safeguard ecosystems, avoid over-allocation, reduce existing over-allocation, maximise use of water and protect significant values of waterbodies.
- Policies A1, B1 and CA1-CA4
Limits and methods to achieve the objectives of the NPS-FM must be set in regional plans, having regard to the potential impacts of climate change, connection between water bodies and connections between fresh and coastal water.
- Objective D1 and Policy D1
Iwi and hapu are involved in freshwater management decision making and the values of tangata whenua are reflected in freshwater planning.
- Appendix 2 – National Objectives Framework (NOF)
Objectives for the compulsory national values of ecosystem health and human health for recreation must be set in regional plans using the attributes in the NOF and be set at a level above the national bottom line. Attributes in the NOF that are relevant to Ruamāhanga Whaitua process are phytoplankton, total nitrogen, total phosphorus, E. coli and planktonic cyanobacteria in lakes, and periphyton, nitrate toxicity, ammonia toxicity, dissolved oxygen and E. coli in rivers.

2.4. Water conservation order for Lake Wairarapa

Under Section 67(4) of the RMA, a regional plan (and therefore the Ruamāhanga whaitua chapter) must not be inconsistent with a water conservation order (WCO). The National Water Conservation (Lake Wairarapa) Order 1989 declares that the wildlife habitat of Lake Wairarapa, including because of way the lake level fluctuates, is outstanding and directs that management of water rights shall

not diminish this outstanding habitat value. An earlier paper to the Committee describes the background and implications of the WCO.⁵

2.5. Summary of key RMA policy context

The key directions that create the policy context for the Committee's work and that the WIP recommendations need to provide for are:

- Maintain or improve fresh water quality (NPS-FM and PNRP)
- Maintain coastal water quality and enhance coastal water quality where it has been impacted by human activity (NZCPS)
- Reflect the values of mana whenua in fresh and coastal water management and provide for mana whenua relationships with significant places (NPS-FM and PNRP)
- Safeguard the life supporting capacity of freshwater ecosystems and the health of people and communities in fresh water (NPS-FM)
- Avoid over-allocation and improve fresh water quality where over-allocation has occurred (NPS-FM)
- Provide for ecosystem health and mahinga kai, and for contact recreation and Māori customary use in rivers and streams, wetlands, estuaries and the open coast (PNRP)

2.6. Local Government Act 2002

Masterton, Carterton and South Wairarapa district councils and the Wellington Regional Council each have responsibilities for delivering the requirements of Local Government Act 2002 (LGA). The LGA provides councils with the power to decide which activities they undertake and the manner in which they undertake them. These powers are limited by the purpose of local government under the LGA to meet the current and future needs of communities for good quality infrastructure, local public service and performance of regulatory functions in a cost-effective manner. The goals of the LGA sit alongside that of the RMA to ensure the sustainable management of natural and physical resources.

The LGA is the key tool (rather than the RMA) for councils to allocate funds to undertake their functions. Councils, under Schedule 10 of the LGA, have an obligation to undertake asset and activity planning. Territorial authorities have to balance infrastructure upgrade spending against other priorities and the interests of a wide audience of ratepayers (e.g. as part of a Long Term

⁵ <http://www.gw.govt.nz/assets/Ruamahanga-Whaitua/WGNDPCS-1420976-v5-REPORTTheLakeWairarapaNationalWaterConservatio....pdf>

Plan). More recently, the LGA was amended to require councils to prepare infrastructure strategies for at least a 30 year period, including for water infrastructure. Infrastructure strategies must identify significant infrastructure issues and identify options for managing those issues over the 30 year period.

2.7. National Environmental Standard for Plantation Forestry

The National Environmental Standards for Plantation Forestry (NES-PF) were published in August 2017 and will take effect from 1 May 2018.⁶ The NES-PF contains a multitude of rules covering the many activities that occur as part of forestry planting, maintenance and harvest. These rules provide for a nationally-consistent approach to managing forestry and its impacts on the environment. The NES-PF provides the rules for all regional plans, meaning that the Ruamāhanga whaitua chapter does not need to include provisions on these activities unless there is significant risk limits set under the NPS-FM process will not be met. The NES-PF does allow for plans to be more stringent than the NES-PF in some circumstances (e.g. to give effect to a national instrument or to manage unique and sensitive environments).

2.8. Other changes to resource management instruments

It is also useful to note there are some changes or likely changes to planning instruments relevant to water management but which are likely to land after the Ruamāhanga whaitua process is complete. These are:

- Recent amendments to the NPS-FM that the regional council must identify its contribution to the national target of 90% of lakes and rivers being swimmable by 2040 – this is to be established by the end of 2018 and is outside a plan change process, and
- National regulations for stock exclusion from waterways, a draft version of which was released in early 2017, and is anticipated to be coming soon.⁷

3. A policy package framework

3.1. Parts of the policy package

The following diagram shows the types of tools that can be put together to construct an integrated policy package designed to help you reach an identified objective. The diagram is designed to describe how the parts of a policy package deliver on statutory requirements.⁸ In particular, the

⁶ <http://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html>

⁷ For details on the draft regulations, see p25 of <http://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/clean-water.pdf>

⁸ See Appendix 1 for definitions of key terminology of the NPS-FM

policy package diagram is informed by the requirements of the NPS-FM and policies A1, B1 and CA1-CA4.

Where water quality does not currently provide for a desired objective, improvement must be sought. In this case, a limit is called a target, meaning that it is a limit that will be met in the future. A policy package of methods to meet a target may need to consider stages to improvement, including what activities can be undertaken *now* to help transition towards better water quality in the future.

In contrast, a policy package to deliver an objective of maintaining current water quality where pressures on water quality are not changing may be quite different. In this case, the current policy package settings may be suitable. However, if an objective to maintain water quality in a waterbody is challenged by increasing pressures on water quality (e.g. increasing intensification of farming activities or greenfield urban development), a more complicated policy package that appropriately manages the change in risks to a water body may be required.

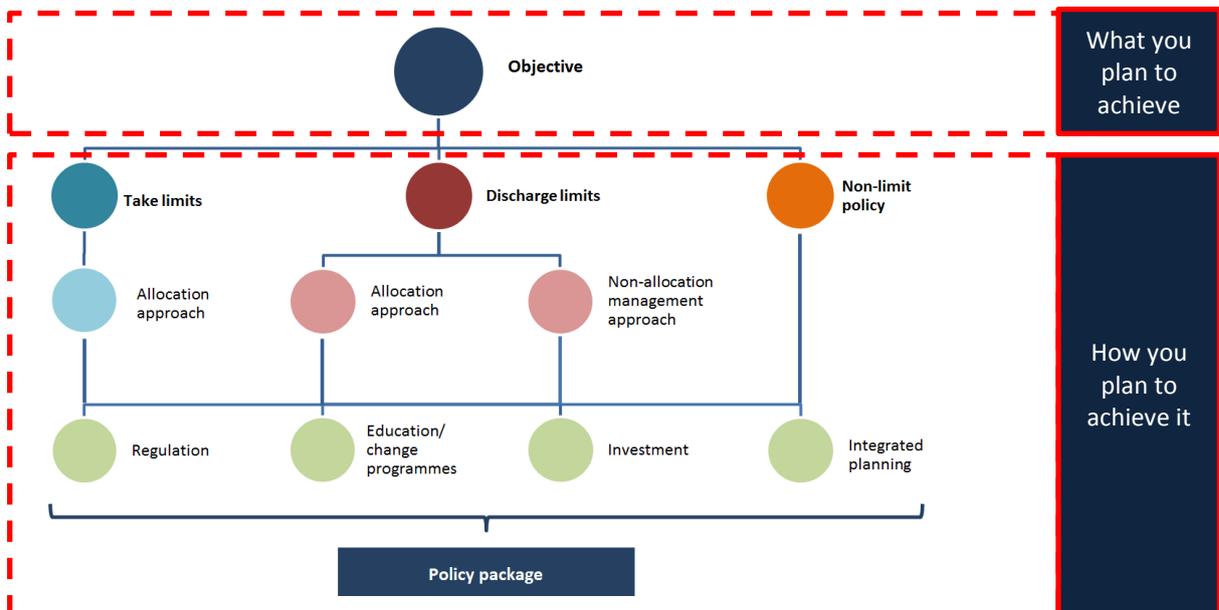


Figure 2. The parts of a policy package for delivering on the NPS-FM requirement to maintain and improve water quality

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Appendix 1 – Key terms relevant to the NPS-FM

Some key terms from the NPS-FM, and relevant to the task the NPS-FM sets, are explained briefly below.

Allocation

The amount of a resource use (e.g. sediment load that reaches water) assigned to a user or group of users. The total of all allocations within a freshwater management unit (FMU) will equal the limit for that FMU. While the NPS-FM requires that limits for freshwater objectives are set, it does not require that allocation of those limits is undertaken. Allocation is one tool within a policy package.

Freshwater management unit

In the NPS-FM, a freshwater management unit (FMU) is the *water body, multiple water bodies or any part of a water body determined ... as the appropriate spatial scale for setting freshwater objectives and limits.*

Freshwater objective

Under the NPS-FM, a freshwater objective describes *an intended environmental outcome* in a freshwater management unit. This objective will describe the state the waterbody must be maintained at or improved to.

Limit

Under the NPS-FM, a limit is the *maximum amount of resource use available, which allows a freshwater objective to be met.* Limits must apply to an identified space and have an identified time period in which they are expressed. Examples of limits are:

- The total annual load of N contributed to a catchment over a year
- The maximum in-stream E. coli concentration at a specified location
- The total amount of water available to abstract from a hydrological unit over a year

Minimum flow

The minimum flow is the flow of a river or stream at which the taking of water is restricted (or required to cease). A minimum flow is a type of limit. Like any other limit, a minimum flow may be established to allow for any type of objective to be met, be it ecological, cultural, amenity, recreational, landscape or natural character. The minimum flow is sometimes called the 'hands off' flow because it triggers a management response. The flow of a stream can drop below the minimum flow as dry conditions continue to reduce rainfall and base flow, even after all abstraction has stopped.

Over-allocation

The NPS-FM defines over-allocation as the state where *a resource has been allocated to users beyond a limit, or is being used to a point where a freshwater objective is no longer being met.* The NPS-FM requires that over-allocation is avoided and that where over-allocation has occurred, it is improved.