

Preparing Action Plans

Action Plans and limits go hand in hand!

Our NPS-FM position in a nutshell

Action plans should be integrated into the National Objectives Framework (NOF) process and considered and developed alongside limits. They should not be seen as an add-on further down the track. Discussions about action plans with tangata whenua should start early, be meaningful and integrate discussions about monitoring, mātauranga and transfer of management or power. Council must engage with the community on action plans at each step of the NOF process. Engagement should actively seek the views of the community on action plans.

There is no restriction on the geographic scale of action plans. The best approach would take into account social and iwi boundaries and relate the action plan to the scale at which the actions can be focused. In most cases, this will be at the Freshwater Management Unit (FMU) or catchment level. Action plans should be a one-stop-shop containing both regulatory and non-regulatory actions to ensure fish passage, achieve target attribute states and environmental outcomes. The regulatory actions could then be carried over into the regional plan, along with a summary of non-regulatory actions included as a method in the regional plan.

Once the actions have been developed, they should be recorded in a draft action plan. This should contain sufficient detail to enable the actions' efficiency and effectiveness to be assessed as part of the s32 report and by submitters.

Action plans do not have to be part of the regional plan but if a Council relies on action plans to achieve any part of its environmental outcome objectives and does not include action plans in the regional plan, the plan will identify goals, but no way to achieve them. This analytical gap could make the regional plan vulnerable to challenge.

The NPS-FM directive

The main purpose of action plans is to assist with achieving the target attribute states¹ and environmental outcomes² established for an FMU or part of an FMU. They may include both regulatory and non-regulatory methods for achieving freshwater outcomes.

The NPS-FM makes the preparation of action plans mandatory for Appendix 2B attributes and optional for any other attributes³. Action plans have the potential to be innovative and flexible and provide a way to bring together actions from diverse groups to achieve freshwater goals.

You must undertake consultation with communities and tangata whenua when preparing or amending action plans⁴, and this must comply with the broader obligations of the NPS-FM to actively involve tangata whenua and engage with community⁵. If an action plan is a part of the regional plan, you will need to consult on it as part of consultation on the regional plan. Schedule 1 of the Resource Management Act (RMA) requires consultation with tangata whenua through iwi authorities, therefore, a copy of a draft action plan must be provided to iwi authorities and regard must be had to the advice received from the iwi authority⁶ in response to the draft action plan. However, best practice would see any action plan developed in collaboration with tangata whenua, well before a draft action plan is sent to iwi authorities for feedback. All consultation must also be in accordance with the LGA⁷ and its requirements⁸.

While the RMA does not refer to action plans specifically, the Act does set out the requirements for regional policy statements and plans, prescribing the process for preparing and notifying regional plans, and for evaluating options before they are included in a regional plan. This is all relevant to action plans. Action plans do not have to be part of the regional plan (this is optional) and there are no statutory requirements specifically about the timing for when action plans must be prepared. However, a regional plan must have methods that achieve the objectives of the plan, which may include action plans.

The regional policy statement (RPS) must contain objectives that set out the long-term freshwater vision for each FMU⁹. A regional plan must contain provisions that give effect to the RPS¹⁰ in the form of objectives, policies, and rules (if rules apply)¹¹. It may also contain methods, other than rules, for implementing the policies of the plan¹² such as action plans. Objectives must be included in the regional plan that state the environmental outcome sought for freshwater values¹³. In other words, every environmental outcome will become an objective in your regional plan.

To achieve the objective (environmental outcome), you must identify measurable target attribute states (TASs) and timeframes for achieving them. Action plans, along with limits, are the methods by

which the TASs, and therefore objectives (environmental outcomes) will be achieved. Limits must be included as rules¹⁴ and action plans are part of the other methods in the RMA plan framework. See Figure 1 in the Tools section below for illustration of how the action plans connect in with the other key components of the NPS-FM.

Section 32 of the RMA sets out an evaluation framework for proposed plans and plan changes. Where action plans (i.e., non-regulatory methods) are used to achieve environmental outcomes (objectives), then those methods must be set out in the regional plan. If this is not done, it will not be possible to conclude through s32 evaluation that the policies and methods of the plan are effective at achieving the objectives of the plan.

Action Plans must be reviewed every five years under the NPS-FM¹⁵.

The NPS-FM requires you to provide for fish passage. To do this, you must prepare an action plan to achieve the objective of improved fish passage¹⁶. This is related to, but not part of the NOF process. You must prepare a fish passage action plans in accordance with clause 3.15 of the NPS-FM.

Fish passage action plans are a critical component to protect the habitats of indigenous freshwater species¹⁷, and of trout and salmon¹⁸ as required by Policies 9 and 10 and should provide for all desirable fish species. These action plans can be standalone or be integrated into an action plan prepared for any other purpose (such as achieving other Appendix 2B attributes). The Ministry for the Environment (MfE) guidance on fish passage actions plans¹⁹ is non-prescriptive to allow for flexibility in how plans are presented. This provides the opportunity for plans to be more spatial, accessible, and useable (e.g., on-line, or GIS-based rather than solely a written document). The Department of Conservation provides extensive fish passage resources to guide fish passage management²⁰.

Where a deteriorating trend has been identified for an FMU or part of an FMU, Councils must respond as soon as practicable. An action plan may be prepared in response to a degraded or degrading FMU or part of an FMU²¹. Action plans prepared in response to an identified deteriorating trend have the additional requirement to evaluate the effectiveness of the methods in an action plan²².

What do we want to see?

You need to consider action plans as equally important to freshwater management as resource limits and they require the same level of attention. We also expect action plans to be used as a means of achieving target attribute states, alongside resource limits.

Action plans should be developed using the NOF with goals that prioritise wai and give effect to Te Mana o te Wai. It is also appropriate to adopt a ki uta ki tai approach, recognising the interconnectedness of the whole environment. Ki uta ki tai is a catchment based, mountains-to-sea, approach to developing action plans.

The scale at which an action plan is developed is flexible. We believe it would be appropriate to start thinking about this at the FMU scale. This will help align action plans with other NPS-FM requirements such as long-term visions for freshwater. A smaller-scale catchment approach, which considers social and iwi/hapū boundaries and any local issues or responses, could then be considered so that the action plan is developed at the same scale as the focus of the actions. At the other end of the spectrum, a regional action plan may be appropriate if the problems and responses around a particular outcome are similar across the region.

We want to see action plans containing the regulatory and non-regulatory actions, together with clear timeframes, for achieving the freshwater goals of the regional plan. They should provide a 'one-stop-shop' and be useful as a communication tool. They should set out the actions of all parts of the community (not just the Council). An action plan could also contain monitoring methods and intentions so there is transparency about how and where outcomes will be monitored, and the actions are integrated into the full NOF process.

At a minimum, we want to see action plans and an indication of their contents included as a non-regulatory method in the regional plan when it is publicly notified. Draft action plans, with a level of detail that provides an understanding of the anticipated effectiveness and efficiency of those action plans, should be made available to inform the s32 analysis on the plan, and available for submitters at notification.

You should take the opportunity to leverage mātauranga Māori when preparing action plans, by integrating this knowledge of local issues and solutions. Working collaboratively with farming landowners will also be crucial in action plan development, where action by them is key to achieving outcomes. NIWA has developed fish passage guidelines which set out recommended practice for the design of instream infrastructure to provide for fish passage²³. Screening water intakes is also important to ensure fish can move past an intake without being pulled into the water take infrastructure. This is particularly important for indigenous species. NIWA has also produced good practice guidelines for fish screening in Canterbury²⁴ which may be useful in other regions. The Practice Notes on protecting the habitat of indigenous freshwater species¹⁷ and protecting the habitat

of trout and salmon¹⁸ provide greater detail on fish passage provisions and how these should be implemented effectively.

To identify deteriorating trends and reasons why the measures put in place have not performed as expected, you need to thoroughly analysis multiple data sets (e.g., state of water bodies and trends, extent of resource use, and farm data on achieving limits) on an on-going basis. Where you identify deteriorating trends, your analyses will serve to inform conversations between relevant agencies, tangata whenua, and communities of interest as to the possible measures to halt the deteriorating trend and achieve improvements. Your analysis will also form the basis of evaluating the effectiveness of the actions proposed to halt the deteriorating trend.

Action plans are required²⁵ for returning soft-bottomed streams to hard-bottomed streams²⁶, where they are naturally hard-bottomed, and it is appropriate to do so having regard to the long-term vision. This is closely linked to the requirement to prepare an action plan for the deposited sediment.

How should the NPS-FM be implemented?

Use the National Objectives Framework

Action plans need to be fully integrated into the implementation of the NOF, with action plans and resource limits considered and developed together as a package of methods for achieving freshwater goals. Action plans should receive the same level of attention as resource limits, at approximately the same stage in the process.

Include action plans in your Regional Plan

Action plans should be included as a non-regulatory method in your regional plan. When the regional freshwater plan change is notified, an action plan should contain enough detail to enable an assessment of the how effective and efficient the actions would be at achieving the objectives of the regional plan. The regional plan must have methods that achieve the environmental outcome of the plan and by including action plans or a summary of the actions in an action plan as non-regulatory methods in the regional plan, it provides a description of the means of achieving the outcomes.

Use an adaptive management approach to develop and implement fish passage action plans

Use the recommended MfE guidance²⁷ to develop and implement fish passage action plans based on an adaptive management approach. This should follow a four-step process, i.e., plan, do, evaluate, and learn:

- identify and document freshwater management units and instream structures.
- categorise and prioritise.
- improve and remediate.
- monitor and maintain.

Tangata whenua involvement and community engagement

Engage early with tangata whenua and community on action plans. Councils need to fulfil their obligations to consult the public on decisions (including decisions on what to include in action plans, especially their funding) under the LGA and as outlined in the NPS-FM²⁸. However, a greater motivation should be that their involvement will strengthen the action plans developed and implemented to protect the health and well-being of water bodies and freshwater ecosystems.

Engagement goes further than consultation and requires early and meaningful commitment to work together to achieve the shared long-term visions for water bodies and freshwater ecosystems. Work collaboratively with, and enable, tangata whenua to be involved in processes relating to Māori freshwater values at every step of the NOF. This includes in action plans that relate to attributes for Māori freshwater values.

Use action plans as a tool to coordinate workplans and secure funding

Action plans need to be set out clearly, and with a high level of detail that prioritise actions and identify costs and timeframes to implement the actions that will achieve the community's freshwater goals. This will give all groups involved in actions (including landowners, iwi, and community groups) a clear understanding about what is a priority and when. In this way, action plans can be used as a tool to coordinate Council work programmes and those of other partners involved in actions, and to help secure funding through the Council's funding processes (Long Term Plans, Annual Plans).

How we know the NPS-FM is being achieved

Action plans are included as a non-regulatory method in the regional plan when it is publicly notified. This will include an outline of what content will be in each one. Draft action plans are made available in time to inform the s32 analysis on the plan and are made available for submitters at notification. They will be a level of detail that provides an understanding of the anticipated effectiveness and efficiency of those action plans.

You will engage early on action plans and enable tangata whenua to be actively involved in all stages of the NOF (to the extent that they wish). Action plans will reflect and integrate empowered discussions about monitoring, mātauranga and transfer of management or power. You will also engage with the community at each step of the NOF process, and actively seek their views and input on every action plans.

Implementation Toolbox

The toolbox will continue to be developed as new information becomes available:

Tools:	are helpful diagrams, processes, or ways to support how you should implement the NPS-FM.
Examples:	provide text suggestions to help draft objectives (values and environmental outcomes), policies, and rules (limits) in your regional plans, including how monitoring could be achieved. It includes examples of how attributes and base line states, target attribute states, environmental flows and levels, and other criteria, where appropriate, can be written or presented to help achieve environmental outcomes.
Case studies:	illustrate where the NPS-FM has been well applied (or not) throughout the country and provides national or international lessons to help implement the NPS-FM.
Evidence:	provides relevant case law to support how the NPS-FM must be applied.
Resources:	provide links to supporting literature and best information available to implement the NPS-FM.

Tools

[When available]

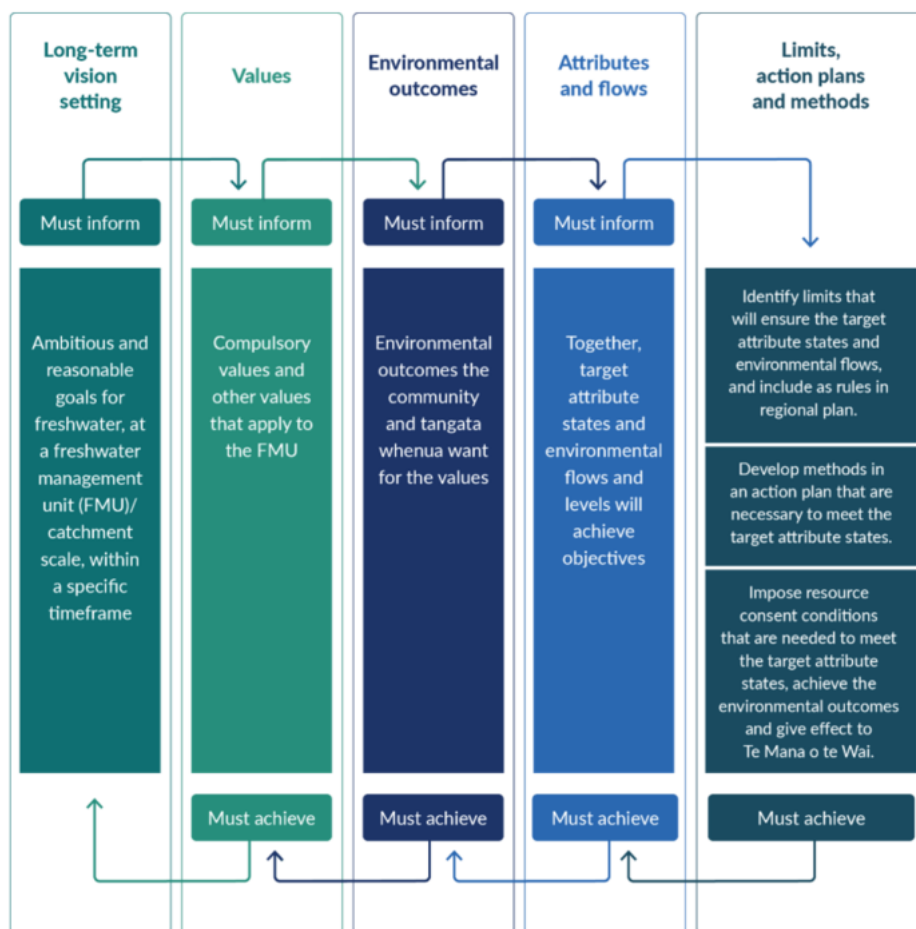


Figure 1 Diagram outlining the connection between key components required to implement the NPS-FM²⁹

Examples

[When available]

Case studies

[When available]

Evidence

[When available]

Resources

Guidance on the National Objectives Framework of the NPS-FM. Ministry for the Environment. Publication no: ME 1753. Updated October 2023. <https://environment.govt.nz/assets/publications/NOF-Guidance-ME1753-Final-Oct2023.pdf>

Limit setting and action plan factsheet. Ministry for the Environment. Publication no: INFO 998. December 2022. <https://environment.govt.nz/assets/Publications/Files/FS22-Limit-setting-and-action-plans-factsheet-final.pdf>

Fish passage action plan guidance. Ministry for the Environment. Publication no: ME 1625. April 2022.

<https://environment.govt.nz/publications/fish-passage-action-plan-guidance/>

New Zealand Fish Passage Guidelines for structures up to 4 metres. National Institute of Water & Atmospheric Research Ltd. Report Ref: END17201 (Version 1.2). December 2022. <https://niwa.co.nz/static/web/freshwater-and-estuaries/NZ-FishPassageGuidelines-upto4m-NIWA-DOC-NZFPAG.pdf>

Department of Conservation Fish Passage Resources. <https://www.doc.govt.nz/nature/habitats/freshwater/fish-passage-management/resources/>

Fish & Game, Forest & Bird and Choose Clean Water have written this practice note to communicate their expectation on how regional councils should implement the National Policy Statement for Freshwater Management 2020 (NPS-FM) into their regional plans. This is one in a series of practice notes which have been prepared on various topics relating to NPS-FM implementation.