

30 June 2024

Committee Secretariat  
Environment Committee  
Parliament Buildings  
Wellington

[en@parliament.govt.nz](mailto:en@parliament.govt.nz)

Tēnā koutou

**Tasman District Council's Submission on the Resource Management (Freshwater and Other Matters) Amendment Bill**

Tasman District Council would like to thank the Select Committee for the opportunity to make comments on the Resource Management (Freshwater and Other Matters) Amendment Bill.

Nāku noa, nā



Tim King  
Mayor, Tasman District  
**Te Koromatua o te tai o Aorere**

# **Tasman District Council Resource Management (Freshwater and Other Matters) Amendment Bill Submission to Environment Committee, 30 June 2024**

## **1.0 Introduction**

Tasman District Council (Tasman) is a unitary authority, servicing a population of 60,500 and covers 9,786 square kilometres.

It has a GDP of \$3.06 billion and, according to recent census data, was the fastest growing region in New Zealand, with a population growth of 10.3% between 2018 and 2023.

We welcome the opportunity to make comments on the Resource Management (Freshwater and Other Matters) Amendment Bill.

Tasman contributes to national and regional policy development through a range of governance and operational fora and interest groups. We have consistently advocated for the reform of the Resource Management Act 1991, where it will improve a policy and planning framework to help local authorities address current and future challenges for our local communities.

Tasman acknowledges the submission of Te Uru Kahika which supports Tasman advocating its own position as a unitary authority on the Bill. We agree with concerns raised regarding the challenges that will be caused by the proposed hierarchy of obligations excluded from consenting, that a nuanced and local specific approach to IWG and slope land requirements would be more practical and effective, and that proposed national direction amendments carry risks.

## **2.0 General comments**

Tasman recognises that the Bill is attempting to improve the process to update national direction to respond more quickly to new science, technology, information, or legal standards that may improve and make more current that direction. This ability to make changes through improved process could be beneficial in ensuring better environmental protection with regulations informed by the most up to date knowledge. Clauses to extend ministerial powers in relation to national direction, however, risks the value of these proposed process changes, leading to ongoing and unnecessary policy shifts.

Tasman also recognises that some benefits will result from streamlining section 32 reports but equally there remain gaps that need to be addressed. Tasman does not consider it appropriate to give the Minister power to make changes to national direction for the proposed breadth of reasons.

Tasman has concerns regarding implementation of the National Policy Statement for Freshwater Management (NPSFM), which is made less clear by removing the need to consider the hierarchy of obligations for consenting. Additionally, the changes to stock exclusion and intensive winter grazing requirements may have unintended outcomes in some parts of Tasman District and in relation to our Council functions.

Tasman would have liked the Bill to have comprehensively considered the opportunity to incentivise biodiversity protection alongside addressing improvements to regulatory mechanisms. This we believe would have opened more opportunities to better support voluntary biodiversity protection commitments.

### 3.0 Specific comments

#### 1. Processes for amending national direction

Tasman is concerned by the proposed changes to national direction. They do not provide the level of improvement Tasman is seeking.

- The lack of analysis provided to support the Bill has effectively led to a poor definition on what the actual problem is.
- The evaluation process under clause 17 for the proposed section 32AB is not as robust as current section 32 evaluation processes.
- The Bill's provisions do not remove duplication and inefficiencies resulting from similar information being required in s32 reports, a Regulatory Impact Statement (RIS) and s46A(4)(c) reporting requirements.

#### Recommendation One:

**That the Select Committee recommends changes to the Bill to ensure that s46A(4)(c) addresses the following matters:**

- a. The extent to which the objectives being evaluated are the most appropriate way to achieve the purpose of the proposal.**
- b. The benefits and costs of and impacts on the environment, economy, social and cultural values that are anticipated from the implementation of the proposal.**
- c. The nature of the risks, their likelihood, and consequences if there is insufficient information.**

#### 2. Unsubstantiated grounds for speeding up national direction process

Tasman is concerned that there are insufficient and unsubstantiated grounds to justify speeding up the process for preparing or amending national direction. While there is room to streamline the process for minor amendments, the process needs to include scope for consultation as even minor changes can have significant implications for Tasman and our communities.

- If Ministers can rapidly change NPS and NES regulations and national planning standards introduced by a previous government, this risks even more uncertainty and costs.
- Increased costs will ultimately be borne by local communities and may result in reduced business certainty and the ability of communities to plan.
- The Bill will reduce the ability of councils to sustainably manage the environment in a consistent manner, with disruptions to plan development and consenting decisions in response to national direction changes.

#### Recommendation Two:

**That the Select Committee recommends an amendment to develop provisions that will support a streamlined process for minor changes to allow national**

directions, for example, to remain current with improved technological or best practice industrial standards.

### 3. Removal of Board of Inquiry (BOI) process

Tasman notes that the BOI process is already optional, and its value questionable given that the Minister has discretion over whether to follow the BOI's recommendations.

- Repealing the "alternative BOI process" option, reduces the ability for ministers to respond effectively to matters of significant public interest.

#### **Recommendation Three:**

**That the Select Committee recommends retaining the BOI process to allow ministers to exercise the option where there are national direction matters that have significant public interest, warranting the use of this process.**

### 4. Excluding public and iwi involvement

Tasman is concerned that the Bill does not adequately consider what scale of change should inform what limits need to be placed on consultation.

- The replacement provision may reduce consultation on matters of significant public interest and lead to national directions that are not responsive to actual issues nor provide the best solutions to address regional differences.
- Limiting statutory consultation may lead to reduced investment and compliance in the implementation of these directions.
- Allowing the Minister to decide what is considered "adequate time and opportunity to make a submission" on the subject matter of the proposal diminishes the opportunity to have the full benefit of a range of council, iwi, community, and industry expertise.

#### **Recommendation Four:**

**That the Select Committee recommends the Bill provide greater certainty and clarity as to when NES provisions would be considered "no longer required as a consequence of changes to legislation" (cl.10(3)(e)) and remove the ability to change timeframes for implementation of part of an NES without public notice, submissions, and consideration of submissions (cl.10(3)(d). If the Minister's discretion is allowed, the Select Committee to require that discretion to be tied to specific criteria that supports sound and fair judgment**

### 5. Freshwater – excluding hierarchy of obligations from consenting

Tasman remains committed to working with our rural and urban communities to address water quality issues through planning provisions, freshwater farm plans and other catchment-specific enhancement programmes. Tasman's approach is to work alongside our communities, recognising that improved water quality is a long-term commitment that to be sustained requires users to adapt their business practices without placing unrealistic financial hardships on them. In practice, all three obligations

in the Te Mana o te Wai (TMOTW) hierarchy are already weighed up and considered as Part 2 matters to ensure environmental, social, cultural, and economic well-being are provided for.

Tasman has spent a lot of time and resources working with iwi partners and communities on how to implement TMOTW hierarchy. The proposed changes do not provide clarity for implementation and will likely create inconsistent application across the country and in breach of good faith relationships with iwi and hapū.

Te Tiriti principles are upheld through partnership arrangements between Tasman District Council and the eight Te Tau Ihu iwi and Ngāti Waewae. Tasman is concerned that the Bill may breach Te Tiriti o Waitangi obligations and settlement agreements.

Tasman is unclear what evidence there is that the hierarchy of obligations is causing issues for consent decision making.

- As it stands, the TMOTW hierarchy of obligations provides a clear direction on relative importance in how to manage conflicting values with respect to freshwater.
- While Te Mana o te Wai is a mātauranga Māori concept, the hierarchy of obligations effectively codifies sections 6, 7, 8 and section 107, so an applicant must address these matters anyway. Removing the hierarchy of obligations from the resource consent process will not remove the higher legislative and planning requirements.
- The hierarchy of obligations is the only place in the NPSFM where TMOTW specifically mentions consideration of economic and social well-being. Thereby, removing the hierarchy from consenting applications and decision-making effectively removes the requirement to prioritise economic and social considerations.
- The proposed targeted change to s104 is specific to the NPSFM objective and the definition of the TMOTW hierarchy. It does not reference the NPSFM policies, of which Policy 1 is “*Freshwater is managed in a way that gives effect to Te Mana o te Wai.*” Therefore, Tasman remains obligated to give effect to the NPSFM—including the hierarchy of obligations—through our Tasman Regional Policy Statement and Tasman Resource Management Plan. Tasman is progressing a Land and Freshwater Plan Change to meet its obligations under the NPSFM and to the Water Conservation Order for Te Waikoropupū Springs.

**Recommendation Five:**

**That the Select Committee recommends deleting Schedule 4 clause (2A) that is proposed to remove Te Mana o Te Wai hierarchy in the resource consenting process.**

**6. Freshwater – amending resource management regulations, re. stock exclusion on low sloped land**

Tasman does not support the proposed changes affecting the requirement for all stock to be excluded from all wetlands. The biodiversity loss of wetlands regionally and

nationally is staggering, and the ecological role these water bodies serve in the lifecycle of indigenous fish species is too important to compromise.

Tasman acknowledges that the stock exclusion low slope maps are difficult to use and not fit for purpose at a regional scale. We are concerned that the Bill's removal of the stock exclusion low slope maps could leave an unregulated gap while we progress our Land and Freshwater Plan Change to the Tasman Resource Management Plan. Tasman prefers to have the ability to create and edit our own regional stock exclusion map for the following reasons:

- Local authorities can more appropriately incorporate regional nuances based on local conditions, risks, and catchment context.
- Freshwater farm plans best serve this local response, supported by regional rules that manage the mid to low-risk activities.

**Recommendation Six:**

**That the Select Committee recommends:**

- Adding a provision in the Bill to allow unitary and regional local authorities the discretion to create and edit their own regional stock exclusion map where slope issues are likely or proven.**
- Deleting the provision which prevents local authorities from restricting all stock from wetlands.**

**7. Freshwater – repealing intensive winter grazing regulations**

Tasman is concerned that removing controls on intensive winter grazing (IWG) from the NES-F, while retaining the pugging and ground cover standards, may have unintended consequences. It is unclear what status the latter now have with removal of the preceding Permitted Activity rule 26 that they referred to. They now appear to relate to the general but now unregulated use of intensive winter grazing.

Whilst Tasman currently has few farms that meet the definition, our concern is that farmers may now consider establishing IWG, which has environmental risks. We recommend that these rules be retained and amended to be fit for purpose. We propose that the stand-alone rules should focus on preventing winter grazing in riparian areas and in critical source areas.

- Raises concern that some farmers may now consider IWG if a resource consent is no longer required. This may create a perverse outcome that will need to be addressed through regional rules or freshwater farm plans.
- Any farm that does IWG, whether on a slope or not, in order to avoid environmental harm should be required to specify in their freshwater farm plans the actions that they will take to manage or mitigate adverse effects.
- Pugging and re-grassing rules are vague, have not addressed the effect and are difficult to enforce.
- The standards are subjective and difficult to determine, which in many situations results in compliance actions rather than improved practices.

- Removing the rules that require farmers to “avoid critical source areas” (CSAs) and “have a 5-metre vegetated buffer between IWG and any waterways” will lead to potentially long term or permanent environmental damage.

**Recommendation Seven:**

**That the Select Committee recommends:**

- Retaining the provision which directs farmers to avoid CSAs and have a 5-metre vegetated buffer from water bodies when undertaking IWG.**
- Requiring freshwater farm plans to address IWG and remove the need for a resource consent if a vegetated buffer is created or protected between the activity and any water body.**

**8. Biodiversity – NPS Indigenous Biodiversity: SNA suspension**

Tasman is concerned that the Bill has missed an opportunity to support regions like ours where voluntary approaches to native habitat protection are well advanced with our communities. Providing economic tools alongside regulation will more successfully extend protection of our regional biodiversity, also adding value to national and international biodiversity goals and priorities. Combining the carrot with the stick would be a more comprehensive way to recognise and value conservation efforts by landowners and the advantage of protecting biodiversity for our local communities.

The ability to apply an economic value to the active protection of biodiversity assets would provide an important mechanism to support landowners who have biodiversity assets identified on their properties as well as those landowners already protecting these assets. Councils across the country provide this type of support when they recognise rates remissions for QEII covenants. The Bill should consider enabling Quotable Value with the means to assess properties against the protection they are providing. Councils are seeking better tools to support rates relief or provide other financial options that recognise the protection commitments made by landowners.

**Recommendation Eight:**

**That the Select Committee recommends that the Bill provides incentive mechanisms to support biodiversity identification and protection.**

**9. Coal mining – consenting pathway for coal mining**

Tasman is committed to a climate change adaptation plan for the Nelson-Tasman region. Consenting new coal mines raises legitimate concerns around the downstream greenhouse gas (GHG) emissions. How this is to be addressed remains unclear given lack of guidance from central government.

**Recommendation Nine:**

**That the Select Committee recommends that the Bill implements international and national obligations to reduce GHG emissions and requires provisions making it mandatory for coal mining developments to provide stringent cost**

**benefit analyses and Environmental Impact Assessments on all applications for new or extended coal mining activities.**

#### **4.0 Closing comments**

In summary, Tasman struggles to see any overall and sustained benefits and improvements this Bill will provide to existing provisions in the RMA and our implementation as a unitary authority. The Bill has missed an opportunity to enhance at a regional level, long term and fit for purpose solutions to legacy environmental issues integral to freshwater, land and soil and biodiversity protection. Tasman acknowledges the submission of Te Uru Kahika which supports Tasman advocating its own position as a unitary authority on the Bill. Once again, we thank the Select Committee for the opportunity to submit on this Bill.

We wish to be heard in support of our submission.