



## Understanding Conflict over Freshwater Values in a Regional Plan

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### SUMMARY

Documenting freshwater values in a regional plan makes specified values more prominent than those not included — and this shapes the field on which stakeholders make claims about desirable environmental and community futures. The experience of Tasman District Council shows that, for stakeholders, the documentation process is inextricably linked to the decision process for making trade-offs between values.

The Land and Water Forum has recommended collaborative processes as a way to identify values and resolve contests over them. The Tasman experience suggests these steps may be more effectively approached through a single process, rather than documenting values first and only later using these to guide decisions. A single process focuses the debate on how to accommodate competing values rather than debating which values are significant enough to include in a plan.

The terms “value” and “values” can mean different things in different contexts, ranging from *value* as a quantification of human utility to *values* as ethical principles, and many things in between. In New Zealand’s National Policy Statement on Freshwater Management 2011 (NPS), and many regional council plans, the term “freshwater values” generally refers to the ways in which people interact with and find meaning in freshwater systems.

The NPS directs regional councils to set objectives and limits for freshwater management based on national and community *values*. This highlights the need to understand the implications of documenting values.

This paper describes the conflict that has arisen over how one council has documented freshwater values in its regional plan.<sup>1</sup>

### THE STRUCTURE OF FRESHWATER VALUES IN A REGIONAL PLAN

Since 2001, Tasman District Council (TDC)<sup>2</sup> has had a schedule of freshwater uses and values in its Tasman Resource Management Plan (TRMP).

<sup>1</sup> In a separate paper we will explore the multiple meanings of freshwater values and their role in freshwater planning.

<sup>2</sup> Tasman District Council is a unitary authority with the functions of both a regional council and a territorial authority.

Known as Schedule 30, its purpose is to “provide information about the significant uses and values of water bodies that may be adversely affected by reduced water quantity or flow” and as a reference for potential consent applicants to “assist in the management of adverse effects from activities” (Baker 2011a).

Schedule 30 lists known uses and values of water bodies and the level-of-significance for some of those values (see Figure 1).

Water bodies with regionally or nationally significant in-stream uses or values have a lower default allocation limit (as a proportion of total volume) than other water bodies. Exceeding this limit would require consideration of the effects on the listed values.

| Water Body Uses and Values   |   |   |
|--|---|---|
| Water Body   | Values/Uses adversely affected by reduced flows or levels   | Water management objectives for water quantity  |
| (15) Riwaka River, including north and south branches and resurgences. | <b>Instream Uses and Values</b>   |   |
|  | <ul style="list-style-type: none"> <li>Trout fishery of regional significance.</li> <li>Native fisheries habitat and aquatic ecosystem.</li> <li>Contact and non-contact recreation, including kayaking.</li> <li>Whitebait habitat in the tidal reaches.</li> <li>Cultural, spiritual and landscape values.</li> </ul> | <ul style="list-style-type: none"> <li>Maintenance of minimum flow regime to protect in-stream values and aquatic habitats.</li> <li>Protection of cultural, spiritual and landscape values.</li> </ul> |
|  | <b>Other Uses and Values</b>  |   |
|  | <ul style="list-style-type: none"> <li>Human consumption.</li> <li>Irrigation supply.</li> <li>Community water supply.</li> <li>Stock and farm water supply.</li> </ul>   | <ul style="list-style-type: none"> <li>Maintenance of users’ security of supply at acceptable level.</li> </ul>   |

**Figure 1** An excerpt from Schedule 30, noting values specific to the Riwaka River (from Tasman District Council 2011).

The content of Schedule 30 has initially focused on in-stream uses and values affected by reduced flow, and hence only TRMP rules concerning activities that affected flow were referenced to Schedule 30.

To address concerns about the lack of objective criteria for assessing the significance of freshwater values, TDC helped develop the River Values Assessment System (RiVAS). RiVAS is an expert-based, multi-criteria methodology that selects attributes and indicators of a particular (predefined) value and ranks a region's rivers for that value (see Hughey et al. 2010).<sup>3</sup> The methodology designates rivers as having 'local', 'regional' or 'national' (or low, medium or high) significance for a particular value according to criteria developed and assessed by a group of 3–5 experts. TDC has used the methodology to assess several types of values in Tasman District.

## CONFLICT OVER TASMAN'S SCHEDULE 30

In 2010, TDC notified a proposed addition to Schedule 30 as part of TRMP provisions regarding activities in the beds of rivers and lakes. Two important changes to Schedule 30 were proposed:

1. The addition of new information, some of it from RiVAS studies, concerning the 'values' of native birds, native fish, kayaking, alluvial gold resources and hydro-electric power generation, including some new locations and new categories of values.
2. The addition of new significance assignments to existing values, mostly ecological values, often promoting them to higher significance.

Explaining how Schedule 30 functions, TDC noted that the plan acknowledges other values more generally and that freshwater uses and values 'include' those listed in the Schedule (Baker 2011b). Thus Schedule 30 was presented not as the final word on values or for use in adjudicating values trade-offs, but merely as a starting point.



**Figure 2** In Tasman's Waimea River, an upper catchment dam is proposed to improve the balance between in-stream values and irrigators' security of supply.

The submissions and hearings process drew sharp criticisms from a number of stakeholder groups (see Baker 2011a, 2011b). Such criticisms included:

- Absence of some rivers in Schedule 30

- Lack of comprehensive acknowledgement of all river values (e.g. iwi, natural and landscape values)
- Lack of detail for some values (e.g. cultural, recreation)
- Lack of detail for specific rivers
- Lack of criteria to determine significance
- Lack of clear protocols for identifying and including values in Schedule 30.

In responding to these concerns, TDC reiterated that Schedule 30 "provides information relevant to:

- identification of management objectives in relation to flows and levels for specific rivers (these translate into minimum flows and allocation limits in the rules),
- policies that guide water allocation from rivers where no allocation limits have been set,
- policies that cover management of adverse effects on river uses and values,
- matters for discretion or control that refer to effects of the activity on uses and values of rivers, including those listed in the Schedule" (Baker 2011b).

From TDC's perspective, Schedule 30 provides information for decision-makers but does not determine the decisions. The criticisms can be dealt with through incremental improvements — more work identifying and eliciting values, more detail for rivers and their values, more significance assessments, and new protocols for adding values.

In mid-2011, the formal process for hearing submissions was put on hold so that a series of workshops could investigate methods to elicit, assess and balance competing values. The workshops offered an opportunity for the council and stakeholders to work through, in what was hoped to be a less contentious setting, how to document and structure freshwater values in a regional plan.

The main protagonists and a range of other stakeholders participated in five thought-provoking workshops, although the practical implications were never far from view (see Sinner et al. 2012). Participants discussed, among other things, the role of a visioning process to identify agreed objectives and a possible alternative format for Schedule 30 that would integrate values and objectives across different parts of the TRMP. These approaches are being considered by TDC for an upcoming process to address water management issues in the Takaka catchment.

The proposed changes to Schedule 30, however, were part of a plan change that was already in motion. When that process resumed after the workshops, the parties largely returned to their original positions. Farming and hydro-electric generation interests opposed the additions to Schedule 30 while in-stream interests supported them, although changes were evident in how these positions were expressed.

<sup>3</sup> See <http://www.lincoln.ac.nz/Research-Centres/LEaP/Environmental-Management-Planning/projects/prioritising-river-values/>

In making its decisions on Schedule 30, TDC made some adjustments, removing some detail on kayaking values in particular, and adopted the changes that added information on values to the Schedule.

Farming and hydroelectric generation interests appealed TDC's decision to the Environment Court, where the case is waiting to be heard.



**Figure 3** Paynes Ford in the Takaka River, a popular swimming spot in Tasman District. TDC intends to undertake a plan change process to allocate water between competing uses in the Takaka catchment.

#### UNDERSTANDING COMPETING NARRATIVES<sup>4</sup>

The perspectives of the parties can be seen as two competing narratives on the effect of listing freshwater values in the plan.

Narrative One argued that Schedule 30 needs to be complete before it can be used. This narrative sees Schedule 30 as guiding decision-making by indicating which values are important. It gives listed values default 'protection', it is argued, because any development impeding those values will have to prove that potential adverse effects are minimised, avoided or mitigated. At the very least, one submitter argued, Schedule 30:

*"should provide more concrete information on the social and economic benefits of land-based primary production in Tasman District" (Federated Farmers of New Zealand 2012).*

In contrast, proponents of Narrative Two see Schedule 30 as imperfect but adaptive and able to include additional relevant information over time. It will thus never be 'complete' but will accommodate new information and in the meantime should be used. And, they argue, it is up to development proponents to identify rivers or reaches of potential importance to them, which to date they have been reluctant to do.

<sup>4</sup> A more complete presentation of this analysis can be found in Tadaki and Sinner (2013).

As another submitter argued,

*"This is not a question of 'balance', but of information... Clearly TDC has an obligation to incorporate all relevant information. It cannot include information it does not have, however. It is incumbent on all parties to bring and justify the inclusion of relevant information" (Fish and Game New Zealand 2012).*

The impasse has been driven by an undercurrent, or sub-text, to Narrative One, in which stakeholder claims are fundamentally concerned that TDC's development of Schedule 30 and RiVAS will frame *future* discussion and plan provisions. In this sense, RiVAS and Schedule 30 working in tandem (ranking values and listing them in a plan) have the effect of legitimizing some stakeholder claims to water over others.

While the inclusion of values in Schedule 30 is not intended to imply trade-offs between values, the act of assigning to some values a level of significance — local, regional or national — reveals how decision-making processes can be influenced by the Schedule. As the TRMP stands at present, significance levels are used to provide default minimum flow levels for unallocated rivers. Regional or national significance triggers higher default minimum flows, and scientific evidence is required to justify reducing these flows. But it is reasonable to expect that the barriers to development will increase when more values are included in a plan, or when a listed value increases in significance from simply present to 'regional' or 'national' significance.

While the contest over Schedule 30 is ostensibly about whether certain information on values should be added, it is really about whether Schedule 30 implies a degree of protection for listed values and whether this will be made explicit in subsequent changes to the plan.

Narrative Two has a related sub-text, as in-stream interests have argued that their only means of protecting their interests is through provisions in a plan, whereas abstractive interests can secure rights to freshwater resources through a resource consent (Sinner et al. 2012). This structures the debate in fundamental ways, as in-stream users seek additions to Schedule 30 (and implied if not explicit mechanisms to protect listed values), while abstractive users resist these additions to leave maximum scope for future resource consent applications.

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Because these questions were not part of the plan change, they were outside the scope of admissible submissions and the parties had to find other points to contest. Thus the contest over Schedule 30 can be seen as an exercise in shadow-boxing, as the parties contest not what Schedule 30 is, but what it might become.

## CONCLUSIONS

Tasman's schedule of freshwater body values acts as a fulcrum around which stakeholders seek to influence freshwater management. By documenting and structuring information, the schedule makes certain values more salient and more easily articulated than others — and this shapes the field on which stakeholders make claims about desirable environmental and community futures. The experience shows that the documentation process is inextricably linked to the decision process for making trade-offs between values.

The Land and Water Forum has recommended collaborative processes as a way to identify values and resolve contests over them. The Tasman experience suggests these steps may be more effectively approached through a single RMA process, rather than documenting values first and only later using these to guide decisions. A single process focuses the debate on how to accommodate competing values rather than debating which values are significant enough to include in a plan — and could ultimately lead to more durable decision-making.

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