Submission by Te Rūnanga Whakauka o Kahurangi ki Kaikōura / Nelson Marlborough Conservation Board - Action for Healthy Waterways proposals

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Introduction

The Nelson Marlborough Conservation Board appreciates the opportunity to provide feedback on the proposals on Action for Healthy Waterways.

The Nelson Marlborough Conservation Board is an independent body established by under the Conservation Act 1987 to represent the public interest in the work of the Department of Conservation and conservation in general. It’s area of jurisdiction extends from Kahurangi Point on the West Coast of the South Island to the Conway River on the East Coast.

Our 11 members were nominated by the community and include five iwi representatives. This submission is part of our role to be the voice of the community and is a consensus of the Nelson Marlborough Conservation Board.

Under the Conservation Act, Section 6N the Conservation Board has the power to “advocate its interests at any public forum or in any statutory planning process.” The Board sees fresh water to be a conservation matter of national importance and has identified fresh water protection as one of its strategic priorities.

One of the Board’s roles under Section 6M of the Conservation Act is to “to recommend the approval by the Conservation Authority of conservation management strategies, and the review and amendment of such strategies…” These constitute the key management documents for directing conservation effort and resources in New Zealand. Many of these documents have objectives, policies and outcomes relating to fresh water habitats and fresh water fisheries and wildlife.

Summary of submission

Overall, the Board supports most of the submission of the New Zealand Conservation Authority (NZCA), including support for the overall direction set out in the Action for Healthy Waterways document, the Proposed National Environmental Standards for Freshwater, and the Draft National Policy Statement for Freshwater Management. The Board has some additional comments.

While the emphasis of the Board’s role is on caring for the public conservation land and the wellbeing of people in that environment, we are mindful of the potential impacts of changing regulations on other parties, including landowners. The Board submits that planning for and assisting with transitional effects of changes in an important means of mitigating these impacts.
The Board supports taking a Whole Catchment approach to fresh water management. The Board submits that flexibility is therefore important because the needs of each catchment will vary. It is not the rules that matter for their own sake – the focus needs to be on what will best achieve positive outcomes for the environment.

NZCA advocacy for fresh water

The Board notes the summary of NZCA advocacy on fresh water protection and shares the NZCA’s concerns and priorities for fresh water.

Nelson Marlborough Conservation Board Submission

The following submissions are the Board’s main concerns about the proposals and mirror the submissions of the New Zealand Conservation Authority (the Authority). The submissions follow the structure of the consultation document and online submission platform.

The Board submission is based on the Authority’s analysis of:

a) The Essential Freshwater: Action for Healthy Waterways (AHW) document
b) The Draft National Policy Statement for Freshwater Management (NPS-FW) and
c) The Proposed National Environmental Standards for Freshwater (NES-FW).

1. General responses to the proposals

a) Proposals as a whole

The Board supports the overall direction of the Action for Healthy Waterways document, the Proposed National Environmental Standards for Freshwater, and the Draft National Policy Statement for Freshwater Management.

The proposed freshwater management reforms have much to be commended, they encourage a holistic approach to ecosystems health and provide greater direction in instances where there is uncertainty. The Board is encouraged by the opportunity the reforms present for strengthening the conservation of freshwater environments and the indigenous species associated with and dependent on these environments.

b) Impacts and implementation

An outcome the Board hopes can be achieved with the proposed freshwater reforms is an improvement of the alignment between the Resource Management Act (RMA) and Conservation legislation, with long term and permanent benefits for indigenous freshwater species.

The Board thinks the proposed directions will assist in reducing degradation. Material improvement will depend, to some degree, on the time it takes for nutrient load to move through subsoils/sub-terrain into waterways; in some areas this could take up to 30 years. In addition, existing consents can have up to 35 years to run their course.
The Board submits that a stronger direction on the review of consent conditions to ensure these deliver on national and regional policies and objectives is required to allow intervention where catchment water quality issues warrant it.

c) Water commission and other comments

The Board shares the NZCA reservations about the timeframes proposed through these reforms. The goal of noticeable change within a decade is ambitious provided that Regional Councils have until 2025 to solidify their plans; however, the subsequent actions arising from those plans may take decades to achieve improved environmental outcomes.

The Board is also concerned about the considerable increased workload to regional councils who, in most cases, will need to raise rates and employ additional staff to respond to the proposals. This, in turn, will place similar burden on farmers, stakeholders, and environmental groups to respond and engage on the regional processes. Equally the demand that will be placed on iwi will be significant; the relationship between iwi/hapu and councils will elevate to a level that will require stronger partnerships than ever before.

The Board submits that there will need to be an injection of well-placed Crown resources to facilitate change and a development of tools and models that assist transitions. This onus needs to be distributed more evenly across the beneficiaries as well as the landowners.

2. Questions on the proposed amendments to the National Policy Statement for Freshwater Management (NPS-FM) and ecosystem-health aspects of the proposed National Environmental Standards for Freshwater (NES)

d) Te Mana o te Wai

The Board strongly supports the concept of Te Mana o te Wai, where the priority is the health of water followed by essential human health needs, and finally by consumptive uses. Such a concept broadens the approach to valuing water for its many qualities, not the least its natural life supporting capacities. An intergenerational approach adds to the power of this concept.

The Board submits that in order to support the concept of the health of the waterway having priority, there will need to be broad discussions at the community level to cement the understanding of mana and what this will mean for their local waterways.

The Board submits that Te Mana o te Wai sets good practice in terms of Te Ao Māori values and working with iwi.¹

e) New planning process for freshwater and redrafted National Policy Statement

The Board supports a National Policy Statement that provides a clear and consistent approach to water reforms, requiring regional plans to focus on their local circumstances. This will allow the acceleration of current planning timeframes.

¹ We refer to Te Mana o te Wai, Kāhui Wai Māori Report to Hon Minister David Parker, April 2019
The Board supports the concept of directing more integrated management of land and freshwater. This concept has been part of the RMA since 1991. The 2011 Freshwater reforms attempted to strengthen integrated management. It is a difficult concept to achieve, given that Resource Consents are typically very site specific. The 2019 proposed NPS-FW provides further clarification under 3.4(4) and when considered alongside 3.4(1), there should be more relevant progress in achieving integrated management.

The Board submits that to achieve integrated management as intended, the NPS-FW Policy 3.4(1) needs to be reworded to provide for alignment with the national policy statement for indigenous biodiversity (NPS-IB):

(1) Regional Councils must, consistent with te Mana o te Wai:

a) recognise the interactions ki uta ki tai between freshwater, land, waterbodies, freshwater ecosystems, other ecosystems, sensitive receiving environments (including the coastal environment) and the indigenous species and their habitats which are part of these environments.

f) New Māori value and new threatened species values

The Board supports the proposal to incorporate Māori values in freshwater management and planning, as these values are integral to the approach of recognising Te Mana o te Wai. Proposals 1 and 2 together will ensure that tangata whenua values of mahinga kai and kaitaki duties hold weight and are recognised in the processes of freshwater management.

g) Exceptions for major hydropower schemes

The Board does not support the proposed exceptions for major hydropower schemes. There is no doubt that the six listed hydropower schemes are an important part of NZ’s infrastructure; a fact that is already recognised under S7 of the RMA. The Board is concerned, however, that allowing these exceptions raises a challenge for those catchments that are subject to a hydro regime and the impacts that an operating regime may bring to downstream values, braided rivers and wildlife security and estuarine health.

The Board submits that the NPS-FW 3.22 sub clauses (2) and (3) are unacceptable. These hydro power schemes have major environmental responsibilities for the resources they use and the freshwater habitats they have permanently altered. We are aware that the communities these power companies operate in feel very strongly about the impacts of these schemes on the community’s natural resources.

The Board supports the NZCA submission that the exception proposed for the six major power schemes in the freshwater reforms should be deleted.

h) Nitrogen, phosphorus, and sediment attributes

The Board supports the addition of sediment as a new attribute; an item NZCA advocated for in the 2017 “Clean Water Package” submission. It is extremely important to freshwater and marine ecosystems and benthic values in receiving environments, given the impact of discharges from rivers to
the marine environment. Equally, requiring attributes such as copper, zinc and dissolved oxygen to be monitored and kept within limits are positive additions.

The Board supports the movement away from an effects-based approach and towards a proactive management approach that uses prescriptive provisions. The evidence is that the effects-based approach in the extreme examples is unable to be enforced. The direction this will give in setting standards and limits on intensive winter grazing, hill country cropping, and feedlots will be positive.

The Board submits that events, such as storms, that impact on sediment load should be considered when assessing the compliance of farms regarding sediment level targets.

i) Ecosystem health policies

The Board strongly supports a better protection of wetlands and sensitive downstream environments including estuaries. The previous contention in defining what is a wetland and what is not has come at great cost to New Zealand. There has been significant loss to wetlands through drainage and development; preventing further loss must be a national priority. The Board commends the proposed NPS-FW for providing clear direction to Regional Councils around what needs to be in Regional Policy Statements and Regional Plans to protect wetlands.

There is, however, a lack of direction for Territorial Authorities; this has been a problem in the past with the responsibility of wetland protection and management sitting ambiguously between Regional and Territorial Government. The Board is unclear if it is the intention that wetlands, including issues relating to their vegetation, will be solely under the jurisdiction of Regional Councils.

The Board submits the NPS-FW and NES-FW clarifies that management of the water regime in wetlands, irrespective of land tenure, falls to regional councils. The jurisdiction being with Regional Councils is supported.

j) Ecosystem health attributes

The Board strongly supports the concepts of ecosystem health, aquatic life, habitat protection, wetland and stream protection, fish passage, water quality, and water quantity issues; including the NES-FW Appendix 2A updated attribute tables and the prescribed limits. These concepts are not only important for freshwater resources but for the protection of indigenous biodiversity.

Nutrient allocation processes are useful tools to set limits on nutrient levels. The zoning of catchments allows targeting of catchments, bringing a focus of efforts to the areas most at risk. The result is a heightened potential to halt decline and bringing about steady improvement in water quality. Identifying at risk catchments will add greater scrutiny to those areas that are most at risk and emphasise restoration needs.

k) Swimming

In the NZCA 2017 “Clean Water Package” submission, the Authority submitted that the E. coli National Bottom Line should be set at the less than or equal to 260 E. coli per 100mls. This is a well-established standard and has been accepted for more than 15 years now. The NPS-FM needs to be more aspirational, in terms of the E. coli national bottom line. The proposed swimmable E. coli bottom line
represents a shifting the goal posts in terms of human health risk. There is no scientific evidence to
justify a lowering of the standard for primary contact to 540 E. coli per 100mls. The Board supports the
proposed Quantitative Microbial Risk Assessment.

The Board submits that the national bottom line for contact recreation/swimmability be set at
260 E. coli per 100mls until new guidelines can be determined through the proposed
Quantitative Microbial Risk Assessment.

l) Flows and metering

An important issue the NES seeks to address is the situation where minimum flows of ecological flow
and levels are non-existent, a critical issue if instream values and water quality are to be addressed.
Setting a national standard for metering is essential; the Board notes that, in alignment with RSWS,
there may need to be some exceptions where technology does not enable this approach.

3. Drinking water, stormwater and wastewater

m) Drinking Water National Environmental Standard

n) Stormwater and wastewater

The Board would like to note the importance of stormwater and wastewater regulation. The economic
costs are minimal when viewed in the larger context of environmental health. The Board anticipates
further consultation regarding stormwater and wastewater safe practices.

4. Improving farm practices

o) Restricting further intensification

p) Farm plans

The Board supports mandatory farm environmental management plans. They provide a constructive
and direct way individual farmers can work to achieve good management practices including stock
exclusion.

The Board notes the dairy accord that Fonterra has with their suppliers requiring fencing of all
waterways may have been hurriedly proposed and, as a result, not entirely effective. The proposed 5m
setback from streams requires a case by case assessment and likely results in greater areas being
fenced off. A case by case and catchment level approach may be more effective at identifying
appropriate setbacks or “retirement of lands” required to achieve appropriate containment of sediment,
nutrient and phosphate loss and habitat protection.

q) Immediate action to reduce nitrogen loss

r) Excluding stock from waterways

The NZCA 2017 “Clean Water Package” submission raised the issue of streams less than 1 metre wide
being included in the stock exclusion provisions. This provision would need to be considered in
conjunction with the 5 metre setback of fencing referred to above. A blanket rule may overlook and
miss wider potential benefits that an objective assessment of each catchment, farm and waterway might achieve.

s) Controlling intensive winter grazing; and t) Feedlots and stock holiday areas

The Board supports rules to control intensive winter grazing, hill country cropping and feedlots. These will assist in addressing practices that are unsustainable and that contribute to the degradation of waterways.

t) Other comments on the proposed National Environmental Standards for Freshwater

5. Policy Interactions

u) Interactions between NPS-FM, NES and other policies

The Board supports the approach to align the RMA national direction. This is critical to achieving integrated management. The Board supports the alignment intended with the Biodiversity Strategy and the National Policy Statement for Indigenous Biodiversity.

The Nelson Marlborough Conservation Board appreciates this opportunity to comment through this consultation process on the Action for Healthy Waterways proposals and looks forward to seeing protection for taonga species and the freshwater biodiversity of Aotearoa New Zealand ensured for the future.

Gina Solomon
Chairperson
Nelson Marlborough Conservation Board
Te Rūnanga Whakauka o Kahurangi ki Kaikōura

30 October 2019