24 October 2019

Freshwater Submissions
Ministry for the Environment
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Dear Sir/Madam,

Submission on Action for healthy waterways

Thank you for the opportunity to make a submission on “Action for healthy waterways: A discussion document on national direction for our essential freshwater”, dated September 2019 (“the discussion document”).

The discussion document refers to a package of proposals intended to be delivered through national direction under the Resource Management Act 1991, in the form of a new National Policy Statement for Freshwater Management (NPS-FM), National Environmental Standards for Freshwater (NES), Sources of Drinking Water, and Wastewater, and section 360 regulations. The package seeks to achieve two objectives: to stop further degradation of New Zealand’s freshwater resources and start making immediate improvements so that water quality is materially improved within five years; and to reverse past damage to bring New Zealand’s freshwater resources, waterways and ecosystems to a healthy state within a generation.

At this stage, only the draft NPS-FM, proposed NES and draft stock exclusion 360 regulations have been released for public discussion. As such, there is limited information available to enable the Council to fully understand the likely and potential impacts of the package of proposals, particularly with regard to the management of the Three Waters (i.e. drinking water, wastewater and stormwater services). Given the limited details, this submission makes some broad, high-level comments on what the Council considers are potential impacts of the proposals on the Central Hawke’s Bay District Council and the wider Central Hawke’s Bay District community.

In 2016 Central Hawke’s Bay District Council undertook a full community engagement project that sought to hear the vision and aspiration for our future. Water quality and the quality of infrastructure that supports that vision has been a clear priority of the current Council and as set out in the Long Term Plan 2018-2028.

The Council’s key concerns about the proposals are outlined below.

1. While Council acknowledges the Government’s objectives (as set out above), it has significant concerns about the timing (where full compliance is required by 2025) and affordability of the package, and the effects this would have on the social and economic prosperity of the District and the Hawke’s Bay Region.
The proposed package comes on the back of a significant programme of works the Council already has underway, to investigate the state of its existing three waters infrastructure (under the Three Waters Review) and upgrade it to meet current legislative requirements, community expectations and demand. The proposed package will add significantly to the Council’s costs and resource requirements and could potentially undo much of the work Council is already doing, if resources need to be diverted from the existing programme to deliver on new requirements. These potential impacts are recognised in the “Interim Regulatory Impact Analysis for Consultation: Essential Freshwater, Part 1: Summary and Overview” (“Interim RIA”) (dated 08 August 2019), which stated:

“The Essential Freshwater package will also impact on councils, through increased workload. Councils may need to de-prioritise other projects/programmes to resource the implementation of the package resulting in some dissatisfaction for council staff. Inversely, if councils are not able to de-prioritise enough other programmes, this may result in overworked staff with associated impact on their physical and mental health. Councils may increase rates in order to resource the extra workload, with potential negative impacts for wider communities”.

Given the District’s small rating base, an increase in costs of $180,000 translates into an increase of 1% in annual rates. Already, as an outcome of the Three Water Review, the District’s urban ratepayers are facing an increase in their rates of a minimum of 10-15% to meet the costs of planned infrastructure upgrades.

The social and economic burden on the District’s farmers will also be significant, and any loss of income and/or increase in costs will flow through to the rest of the Central Hawke’s Bay community, in terms of the people, businesses and services that rely on and support the farmers (e.g. labour, veterinary services, banks, breeders, contractors, farm machinery, vehicle and equipment suppliers, accountants, etc.).

A reduction in farmers’ ability to maintain their farm pest management and weed control programmes (where funds need to be diverted to implementing the proposed package) could also compromise the ability for the region to achieve its biodiversity strategy and the Government’s objectives for indigenous biodiversity (under the proposed National Policy Statement for Indigenous Biodiversity).

The costs for the Hawke’s Bay Regional Council to fund and resource the proposed package (including monitoring compliance with the regulations) would significantly increase, which will likely result in an increase in regional rates. This would further add to the burden of the District’s and Region’s urban and rural ratepayers.

It is also important to note the contribution many farmers have willingly undertaken already fencing waterways and planting wetland areas and the additional costs of compliance that have been implemented and continue to be implemented in the Hawke’s Bay region. These
have a significant bearing on the overall economic prosperity and positivity of the region, balanced with the environmental outcomes our community also seek.

Overall, the Council considers that the proposed package is unaffordable and there needs to be a complete rethink about how national government will assist local government in funding these national directives.

2. The discussion document seeks feedback on high-level proposals for wastewater and stormwater regulation. The proposals would see the introduction of a new NES for Wastewater Discharges and Overflows and a new Water Services Act to require wastewater and stormwater network operators to prepare risk management plans and undertake annual reporting on a set of nationally prescribed environmental performance measures. We note that the Interim RIA did not address the potential impacts of these proposals. Until more details of the proposals are available, it is difficult for the Council to fully understand the potential impacts, although our comments under point one above are of relevance to this matter also.

3. There is a lack of direction provided by the Government on what priority should be given to the various elements of the package, and how any inconsistencies or competing elements are to be managed or addressed. For example, does the NPS-FM have priority over the proposed NPS for Highly Productive Land and does the Drinking Water NES have priority over the NPS-FM?

The discussion document refers to the need for local authorities to balance sometimes competing priorities (e.g. between protecting urban freshwater ecosystems and providing for urban development) and creating trade-offs relating to water quality and ecosystem health outcomes due to increasing intensive land use on highly productive land. However, it is difficult to see how there can be any trade-offs, given the specific requirements of the proposed NES (e.g. the inability to increase the amount of land on a farm for irrigated production by more than 10 ha where it will cause the farm to exceed the average discharges of the four contaminants from the farm that existed during the farm year 2017/2018).

4. The proposed NES would introduce a form of grand-parenting and provide an unfair advantage for farms with existing, larger discharges of the four contaminants associated with irrigated farming and/or commercial vegetable production undertaken in the farm year 2017/2018.

This would effectively lock-in the existing farming situation and prevent any further meaningful increases in the productive use of land, including highly productive land. Having recently completed our Districts Economic Development Action Plan with the support of funding from the Provincial Growth Fund, diversification and shifting from volume to value could be compromised. There would also be an opportunity cost to farmers who intended to intensify, but could no longer do so under the proposed regulations if it resulted in increases in contaminant discharges.

2 Refer to page 99 of the discussion document.
3 Nitrogen, phosphorus, sediment and microbial pathogens.
4 Regulation 34: Irrigated farming, of the proposed NES for Freshwater.
5. It is uncertain whether the requirements of ‘Subsection 2 – Intensification’ of the proposed NES would apply to the Tukituki River catchment. Whether the subpart applies is dependent on whether the national policy statements for freshwater management (i.e. the NPS-FM 2014 (amended in 2017)) have been fully implemented.

The Hawke’s Bay Regional Council is already working with landowners and communities within the Tukituki River catchment in Central Hawke’s Bay to manage specific water quality issues. Plan Change 6 (PC6) to the Hawke’s Bay Regional Resource Management Plan was made operative on 1 October 2015 with the aim of sustainably managing land and freshwater to enable recreational use, ecosystem health, safe drinking water, decreased algal growth, enhanced mauri and the use of water for primary production and processing purposes. PC6 includes rules and non-regulatory methods to improve water quality, including stock exclusion from permanent and some intermittent streams, Farm Environment Management Plans, and maintaining records for nutrient budgeting. Implementing PC6 requires a coordinated effort from the Regional Council, landowners and the community.

The regulations in the proposed NES are more restrictive than the rules under PC6. If the regulations under Subsection 2 of the NES apply, this would undermine work that has already been done under PC6 and would effectively prevent further intensification of land use within the Tukituki River catchment, including the highly productive soils of the Ruataniwha Plains if water was to become available for irrigation. This would likely have significant adverse effects on land valuations in the catchment. It would also call into the question the benefits of providing any protection of highly productive land in the District.

Regardless of whether PC6 applies, all rural land located outside the Tukituki River catchment (comprising the largest part of the District) would be subject to the more restrictive NES regulations. This would effectively prevent any further, significant increases in the productive use of land occurring in the majority of the District, which would have huge implications for the social and economic prosperity of the District.

The significant costs associated with fencing proposals in the plan are of concern. This includes large, rugged hill country in our coastal areas which are not part of Tukituki Catchment which will place additional costs on already struggling farmers; as well as the cost of increasing the setbacks for Tukituki fencing when it has largely already been completed (and 90% of the benefit happens at 1m setback anyway) – more unwinding of existing good work.

We support the intentions and principles of the Te Mana o Te Wai priority but point out that this will be difficult to resource in terms of capacity and capability of both parties where population densities are sparse; and also that it may produce complexities with Whenua Māori where investment in intensification (from a low base) is likely.

If you have any questions about this submission, please contact [Personal details removed] Chief Executive
Yours sincerely

[CHIEF EXECUTIVE OFFICER]

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[MAYOR CENTRAL HAWKE’S BAY]