31 October 2019

Freshwater submissions
Ministry for the Environment
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Dear Sir/madam

RE: Combined Submission on the Freshwater Reform Package

The Far North District Council (‘FNDC’) is grateful for the opportunity to comment on the Freshwater Reform package as set out in the discussion document Action for Healthy Waterways and the accompanying Draft National Policy Statement for Freshwater Management, Draft Stock Exclusion Section 360 Regulations, and Proposed National Environmental Standards for Freshwater (‘policy package’).

The Far North District is one of New Zealand’s largest districts by land area. We have an overall low population density, remote small communities dispersed throughout the district and multiple community hubs. Many of the small communities rely on their own package utilities. Often residents in these communities have low incomes and the deprivation index is high. However, Far North communities value freshwater water for recreational, spiritual, productive, domestic and landscape purposes.

FNDC’s obligations under the LGA 2002, the RMA1991 and the current National Policy Statement for Urban Development Capacity is to provide the three water services to our communities. FNDC’s submission is made primarily in the interest of securing the continued affordability of utility infrastructure (the three waters) to our communities as required in the purpose statement of the Resource Management Act 1991, being the sustainable management of natural and physical resources and the social, economic, and cultural wellbeing of its people and communities.

FNDC’s approach to water management, subject to resource consents from the Northland Regional Council, is complex, given the dispersed settlement pattern and the District’s topography and geography. The management of
water is aligned with the long-term development of land, and therefore in many cases a legacy of decisions made generations ago and adjusted to address growth – for social, economic and cultural reasons. As a result, changing the current practice of water management will come at a cost to communities and ratepayers, particularly where further uncertainties may impact communities, such as the potential need for adaptation of these communities to the effects of climate change, or the management of productive soils (requiring water to be productive). Coming up with and implementing remedies is not a straightforward task, and in many cases these are uncomfortable and controversial.

FNDC understands the importance and the requirement for the sustainable management of fresh and coastal waters. Our mission is to “create great places” and the affordable and sustainable management of water resources is inherent in this. In addition, the Northland Regional Council mission is to work “together to create a healthy environment, strong economy and resilient communities.” However, given the above discussion, it is essential to consider the effects on community affordability and sustainability, as well as the opportunity cost of the proposed policies, regulations and standards.

**Timelines and costs to enable a fair transition to ‘healthy’ freshwater**

FNDC’s concerns relate to the social and economic cost on communities associated with the overall policy direction, particularly if implemented within the radical timelines suggested (approximately five years). To address this, FNDC requests that policies to enhance the quality of freshwater management provide an adaptive framework aligned with the life-cycle of assets to allow gradual, rather than ‘abrupt’ remedies to water management to enhance water quality. A gradual approach to managing water with the goal to enhance water quality and the intrinsic value of water may have positive effects in that communities, similar as intended by the MfE adaptive management approach for Climate Change, will have the opportunity to adjust to an evolving freshwater enhancement process and regime. In the Government’s words regarding a path to a low emissions economy, we need a “just transition – one that is fair, equitable and inclusive.” This may therefore result in empowering and incentivising individuals and communities to implement change, rather than “pulling out the rug from underneath them” within a five-year timeframe, creating unsustainable businesses, greater unaffordability and a reduction in economic, social, cultural and likely environmental well-being.

Proposed freshwater quality enhancement methods must be affordable and implementable. It will be absolutely critical for policy developers to provide robust evidence that proposed remedies (or upgrades) to community infrastructure enable the desired quality improvement, particularly to retain credibility towards rate and tax payers. At this point in time, the proposed policy package does not deliver on this. A Section 32 analysis does not seem to be available and it is therefore unclear whether this policy package is the most appropriate alternative considered or available. Insufficient regard has been given to social and economic costs for individuals and communities, and there is considerable uncertainty due to misalignment and contradiction with other proposed national policy statements (e.g. NPS-Productive Soils or NPS-Urban Development). In addition, no regard has been
given to resourcing to implement many of the policy proposals, including the requirement for the regional councils to engage with tangata whenua and the wider community in developing plans — particularly within the unrealistic timeframes proposed.

Given the duration of many resource consents, FNDC does not believe that New Zealand’s freshwater resources will materially improve within five years. In fact, it is considered that the proposed policy package has the potential to considerably disincentivise the appropriate behaviour due to the potential for costs and uncertainty to obtain resource consents. Whether New Zealand’s freshwater resources will be brought into a “healthy state” within a generation requires a definition of “healthy state”. This should not be a nationwide generalisation, but should be assessed based on the state of the receiving environment and operational improvements as well as the geographic, socio-economic, and cultural context of where freshwater enhancement goals are sought.

**Investment in intensification**

The Far North District is one of New Zealand’s fastest growing areas, with high net migration. Such growth has considerable effects on current servicing levels, requiring balancing of growth through infill and greenfield development in urban areas, while rural subdivisions have not experienced great limitations until now. While urban ‘hubs’ enjoy reticulated water networks, small remote and rural developments rely on small community plants or roof collection water supplies and individual wastewater systems. Urban growth is also associated with increased areas of impervious surfaces, concentrating stormwater volumes either to reduced pervious surfaces or into reticulated networks. Water supply, wastewater and stormwater management schemes are subject to resource consent conditions set by the Northland Regional Council, including monitoring.

Despite current growth, Far North District Council is continuously considering the potential for community decline, particularly when considering the effects of climate change, the potential need for retreat of coastal communities or those in flood hazard zones. Clarification has been sought on the impacts and implementation of the Climate Change Response (Zero Carbon) Amendment Bill (‘Climate Change Bill’), which has created uncertainty regarding adaptation funding sources, and community costs due to loss of insurance and livelihood and reduced land use profitability. Sustainability and affordability and community well-being are constant themes in the management of the Far North Districts’ natural and physical resources.

In addition to the Climate Change Bill, recent release of discussion documents on proposed National Policy Statements for Productive Soils and Urban Development create potential costs and constraints for Far North communities, which will add to the cost to sustain communities by potentially increasing land values due to increased development controls despite the intent to create a secure land supply (land banking may contribute to this). Costs would also be generated from what appears Council-funded utility services to enable the required development capacity. It is noted that the draft National Policy Statement of Urban Development does not define the term ‘quality urban environment’, a component of which is affordable servicing in intensified areas.
Low population districts such as the Far North, with, in some cases, declining community populations have in the past sought to incentivise growth in a manner which, in hindsight, has created a funding deficit for required capital projects. Therefore, the District is already exposed to significant pressure to ensure sustainable and affordable quality of living. Therefore, the release of this policy package will further impact our communities and the ability of our population to create employment or sustain and retain their land management practices, their cultural and their heritage.

This is particularly apparent in Policy 13 of the draft NPS of this policy package, which provides that communities are to be enabled to “provide for their economic wellbeing while managing freshwater in a manner consistent with Te Mana o te Wai as required by the national objectives framework and other requirements of this National Policy Statement.”

FNDC understands this to mean that the protection of the health of freshwater has absolute priority, which therefore means that balancing water quality (e.g. using current methods) and enabling economic and with that social and cultural well-being, may not be possible under the proposed policy. In addition, furthermore, this policy package directs that regional councils must set limits on resource use to achieve the ‘target attribute states’. This policy package therefore has the potential to restrict new or intensified land use and development, including urban or growth in rural zones (infill and greenfield development), as well as e.g. horticultural land use intensification. This is a considerable concern for FNDC, particularly in light of having to provide for potential (intra-district) migration as inferred above with respect to the Climate Change Bill: Adaptation will impact local sustainability and affordability, especially for our most vulnerable populations. In addition, climate change may also present considerable opportunity to our district, such as the growing a greater variety of crops.

Land use intensification for irrigation will also be impacted. Clause 34 contains controls on irrigated land use expansion. An increase of more than 10 hectares is a discretionary activity. While the cost of conversion to an alternative agricultural land use may already be considerable, the limit on irrigated land increases may fly in the face of the intent of the PGF funded Northland Water Storage Project, a collaborative project led by the Northland Regional Council with the Far North District Council and Kaipara District Council, investing in local water storage schemes, which received considerable funding through the Provincial Growth Fund. This project investigates land use conversion to address local deprivation by creating employment through land conversion to greater value crops and support/and processing industries. While soil productivity has been rated high, water storage is required to enhance growing potential in summer months when natural soil moisture levels fall below the level that would sustain crops. This project provides additional benefits for Far North District to provide an economic back-up water supply for the town of Kaikohe.

Despite this, it appears that the opportunity cost of precluding new or intensified land uses has not been considered in this proposed policy package. Rather, it appears that the policy package seems to promote the retention of the status quo of freshwater quality at best. Essentially, a policy direction such as this will have the effect of the regional council having greater influence on land use decisions. If enacted, these policies are likely to
preclude (or at least make it very difficult) for new uses and development of land that will result in increases contaminant losses to water.

At the operational level, FNDC currently operates 14 wastewater treatment plants that discharge treated wastewater to surface water. It is therefore critical to retain the ability for continued discharge of treated wastewater to water where this is shown to be the best practicable option and/or the effects of the discharge to water are shown to be less than minor. Discharge of wastewater to land at a community level is an emerging practice, however conversion to such systems would be unaffordable in most locations. As previously mentioned, it appears that the proposed policy package has not considered costs on communities and affordability of utility services. As discussed elsewhere in this submission, central government must provide the Section 32 analysis which provides a clear evaluation of costs and benefits of each alternative considered.

Section 32

FNDC in general supports the intent to enhance the water quality of our water bodies, water courses and our coastal environments. However, we consider that the management of water quality must be undertaken based on a robust assessment of costs and benefits of possibly alternatives, suitable for local conditions and occur in recognition of the geographical, social, economic, cultural and climatic differences across New Zealand, i.e. provide for local context. To this end, FNDC requests that central government provides the Section 32 analysis which will have been undertaken to support the policy direction proposed.

The Section 32 analysis must also include an analysis of the opportunity cost of development or intensification potential for areas, particularly where deprivation is of concern and hinders the provision of community service and population advancement.

Tangata Whenua

FNDC agrees that Tangata Whenua values must be had regard to in the approval of utility infrastructure and the enhancement of water quality, and therefore largely aligns with Northland Regional Council’s submission on this policy package. In order to define enhancement however, it will be important that those specific values to be enhanced are agreed and measurable. In addition, it must be taken into account that proposed compulsory values such as mahinga kai are not necessarily influenced by Northland Regional Council or district councils for that matter. Therefore, as an organization NRC or FNDC would have little control in respect.

Arbitrary performance standards, activity status and monitoring (including farm plans)

Arbitrary performance standards (e.g. 10m fence setback from wetlands or blanket 100m setback for drainage activities), less certain activity standards and high monitoring requirements are discussed in considerable detail in the proposed policy package. FNDC considers that increased monitoring needs (e.g. vegetation distribution, wetlands, water quality) on all consent holders (not just FNDC) will result in considerable costs to individuals and
communities. In addition, a less certain outcome for resource consent applications with a higher order/less certain activity status (e.g. discretionary or non-complying) as well as monitoring requirements will have the potential to act as a disincentive to land management and restoration with the overall goal of freshwater quality enhancement.

**Relief requested by FNDC**

1. Revised timeframes to phase in freshwater management policies and enhancement in the spirit of adaptive management to allow a fair transition

2. Alternative funding sources
   - An alternative source of funding from central government to support operational cost funding (rates) for any required utility infrastructure upgrades must be investigated to enable a fair transition to enhanced water quality environment, particularly where the proposed National Environmental Standard (NES) for Wastewater Discharges and Overflow has the potential to add cost and monitoring requirements to wastewater and stormwater network operations and duplicate measures/standards that we already adhere to through existing resource consents.

3. Make available the Section 32 report to allow FNDC to understand the benefits and costs, alternatives and appropriateness of methods.

4. Alignment of the suite of policy proposals
   - FNDC considers it essential to align the recent suite of policy statement proposals. Misalignment of policy direction and contradiction or tension of intent may lead to the responsibility of ‘testing’ or verifying the application of policies at decision time of the resource consent process. Reconciliation of the various policy documents is required now.
   - Clause 3.4(5) requires regional councils to insert a specific method into their regional policy statements that directs district councils to “...include objectives, policies, and methods to avoid, remedy, or mitigate the cumulative adverse effects of land use on freshwater bodies, freshwater ecosystems, and sensitive receiving environments resulting from urban development.” While FNDC’s district plan is currently under review, FNDC is concerned about the considerable additional workload imposed through the wider suite of draft policy statements recently proposed. Continued adjustment of district plans to respond to the many policy updates by central government do not consider local resourcing and the cost to the community of amending a plan, let alone the cost of implementing the specific provision to be included.
5. Proposed National Environmental Standards (Wastewater and Stormwater)

- The proposed NES will need to be consistent with the Resource Management Act 1991 (RMA) in regard to the proposed “minimum treatment standards or ‘limits’ for wastewater quality parameters”. Tension arises between the effects-based approach of the RMA and the resource consent regime for our wastewater network and a national set of minimum requirements through the proposed NES. It is recommended that greater consideration is given to the receiving environment to ensure that the NES balances the health of the freshwater receiving environment and the practicability and cost of meeting those requirements. As discussed above, sustainability and affordability will be key in creating a fair transition.

- It is noted that the policy package includes proposals for new requirements for wastewater network operators and stormwater network operators via the new NES for Wastewater and a new Water Services Act. This includes risk management plans to be completed for wastewater and stormwater networks. There is potential for increased costs due to the scope and detail of risk assessments as well as resourcing. Further clarification is required to understand the scope.

- While ‘green infrastructure’ has been identified as a tool to manage stormwater, green infrastructure can be difficult and costly to implement and maintain. If there is an expectation that more ‘green infrastructure’ is needed, clear guidance is required to support Councils and developers, including expectations for Environmental Engineering Standards and District Plans.

- Ongoing funding of wastewater schemes similar to the National Land Transport Fund and Funding Allocation Rates would reduce the cost of wastewater services significantly in the Far North and make upgrading schemes viable.

Yours sincerely

Chris Sargent