Kia ora

25 October 2019

Vicky Robertson
Chief Executive
Ministry for the Environment
23 Kate Sheppard Place
WELLINGTON

Dear Vicky Robertson

Porirua City Council’s submission on Action for Healthy Waterways

Thank you for the opportunity to submit on this package of freshwater reforms. While our substantive submission is attached, we wanted to reiterate a few of the key points.

Porirua City Council supports the intent of the package. The health of Te Awarua o Porirua harbour is a very important issue for the people of Porirua, particularly our Mana Whenua Ngāti Toa Rangatira.

However, we have serious concerns about the ability of the local government sector to deliver desired outcomes.

We understand that the Government has commissioned analysis that indicates $3 Billion worth of investment is required to improve the quality of wastewater discharges to bring receiving water bodies up to a swimmable level.

We have estimated we need up to $1 Billion just for our relatively small city to meet the community’s desired levels of service for wastewater overflows across our entire network, as well as meeting E.coli limits being considered by the Greater Wellington Regional Council under the National Policy Statement for Freshwater (under the Whaitua catchment planning process).

This $1 Billion is to reduce one contaminant, in one catchment in New Zealand.

Clearly this burden cannot be borne by ratepayers alone. Central and Local Government need to work together to find solutions if these reforms are to be successfully implemented.

Ngā mihi

Chief Executive
Kaiwhakahaere Matua
**Action for healthy waterways: A discussion document on national direction for our essential freshwater**

**Porirua City Council Submission October 2019**

**Question 1. Do you think the proposals set out in this document will stop further degradation of New Zealand’s freshwater resources, with water quality materially improving within five years?**

We support the overall intent and direction of the action for healthy waterways discussion document. From a policy perspective, it is moving in the right direction.

The health of Te Awarua o Porirua harbour is a very important issue for the people of Porirua, particularly our Mana Whenua Ngāti Toa Rangatira. That’s why Porirua City Council has a strategic priority of working towards “A healthy and protected harbour and catchment”.

Unfortunately, as with most cities, there is significant work required for Porirua to see a material improvement in water quality. We consider it will be difficult to achieve the improvements required to stop further degradation of urban freshwater resources in five years, within existing institutional and funding arrangements.

Greater co-operation and funding across a range of agencies and by communities is required to achieve the necessary fundamental changes in how freshwater resources are viewed and used.

**Question 2. Do you think the proposals will bring New Zealand’s freshwater resources, waterways and ecosystems to a healthy state within a generation?**

A change in focus for how we view investing in managing our natural resources is necessary if we are to achieve healthy freshwater resources in New Zealand. Many communities are prepared to invest substantially in urban growth and infrastructure, but not in adequately managing our fundamental natural resources.

As they stand, the proposals lack detail in implementation requirements and focus predominantly on regulatory changes. Regulation alone is unlikely to achieve the changes required and will impose compliance costs on operational agencies which, under current arrangements; can often exceed the activities being undertaken to improve freshwater health. Clearly articulated agency responsibilities, resource requirements, accountability and direction on access to substantive funding streams are required if any positive changes are to be achieved within a generation.

For example, we understand that the government has commissioned analysis that indicates $3B worth of investment is required to bring water quality in proximity to wastewater treatment plants up to a swimmable level.

This figure is likely to be an order of magnitude higher considering we have estimate of up to $1B required just for our relatively small City to meet the community’s desired levels of service for wastewater overflows across our entire network. This $1B is to reduce one contaminant, in one catchment in New Zealand.

This cost to upgrade infrastructure to achieve a healthy state is prohibitive for communities the size of Porirua.

**Question 3. What difference do you think these proposals would make to your local waterways, and your contact with them?**
PCC generally supports the intent of the proposed package, but overall costs are likely to be beyond our ratepayer funding base. For example, substantial investment is required in the following areas:

- Improvements in our aging wastewater network, including the private network, to meet ecoli targets
- Mass hill country and rural stream bank planting and fencing programme to meet sediment targets
- Large scale urban stream rehabilitation to achieve human contact values
- Retrofitting networks in urban catchments to enable water sensitive design solutions to manage peak stormwater flows from impervious surfaces, and treat urban contaminants
- Large scale water conservation measures and developing new water sources due to restrictions on ecological flows capping supply from our water supply catchments

**Question 4. What actions do you think you, your business, or your organisation would take in response to the proposed measures?**

PCC already considers environmental effects when planning for future growth areas, we are actively working to identify and manage:

- Any water related constraints – including quality and quantity objectives and limits
- The natural environment including wetlands, streams, and receiving environments
- Need for best practice urban development, including water sensitive design
- Costs to implement new technologies that improve water quality.

However, the most significant impacts will be addressing legacy issues, particularly our aging wastewater and storm water network; as well as addressing erosion and sediment loss from historic vegetation clearance and damage to urban stream. These legacy issues have created significant water quality problems and a substantial reduction in flood capacity.

As outlined in Wellington Water’s submission on our behalf (which focuses on implications for our waste water and stormwater networks), there would need to be a fundamental increase in capital renewals and operational expenditure in order to contribute to a meaningful improvement in urban water quality OR there would need to be a major re-prioritisation of investments already planned to be able to meet the requirements of the NPS-FM.

PCC is acutely aware of the need to improve our legacy networks and is progressively providing for this in long term planning. There will need to be an allowance to ensure improvements can be made in a timeframe that meets ratepayer capacity, should that be the only form of funding. Alternatively, additional funding sources should be made available. There is also a need to ensure the costs of additional consenting and compliance regimes are balanced against the capital requirements for infrastructure changes required.

Another factor is the financial and administrative impacts of working in a very dynamic regional and national regulatory environment. The current raft of national direction recently enacted or proposed will need to be reconciled with:

- The Regional Policy Statement for the Wellington Region (2013)
- The Proposed Natural Resources Plan (process began 2010, decisions released 2019, now subject to appeals)
- Our District Plan (we have just finished consulting on a Draft District Plan and intend to notify a Proposed District Plan next year)
- Other Council strategies and bylaws including our Growth Strategy and our upcoming Climate Change Strategy
• Other guidelines including subdivision design guidelines, and water sensitive design technical guidelines
These documents are interconnected and changes at a national level will likely result in complex planning and legal issues.

Question 5. What support or information could the Government provide to help you, your business, or your organisation to implement the proposals?

Government departments need to have long-term and sufficiently resourced implementation programmes to give effect to these proposed policy changes. A joined up approach to implementation planning between Government departments is necessary particularly where policies and resource allocations to the community from different departments are mutually exclusive i.e. housing policies and freshwater.

Central and Local Government need to work collaboratively on solutions, including centrally coordinated programmes for research, training, guidance, legal toolkits etc.

As outlined in Wellington Water’s submission on our behalf, significant Government financial support for Local Government for some of the larger infrastructure initiatives required would be required.

Clear direction and central Government resource allocation on riparian management practices is necessary. Currently riparian management programmes are poorly resourced, uncoordinated and largely driven through community initiatives.

Clear direction on urban stream rehabilitation is also necessary. Currently requirements to manage urban stream form, use or rehabilitation are unclear. Local authorities would also benefit from clearly articulated policies on
• managing urban stream form in new developments
• water sensitive design form, function and cost recovery
• rehabilitation requirements in existing commercial, industrial and residential environments.

Question 6. Can you think of any unintended consequences from these policies that would get in the way of protection and/or restoration of ecosystem health?

The NPS-FM is likely to have an impact on District Plan / section 31 RMA functions related to planning for growth. Many councils will struggle to reconcile environmental improvements, while meeting housing supply requirements under the NPS-UD.

Jurisdictional boundaries for managing wetlands are not clearly stated between territorial authorities and regional councils. Articulating the boundaries would be helpful.

The process for setting objectives, limits and target attribute states is inordinately complex, resource intensive, costly and open to scientific interpretation and challenge. Complex processes such as these lend themselves to legal challenge through the resource consent process. Overly scientific requirements do not lend themselves to responsive freshwater management, and a more simplistic approach that is still based on good science may enable more effective implementation.

Question 7. Do you think it would be a good idea to have an independent national body to provide oversight of freshwater management implementation, as recommended by KWM and FLG?

We support a consistent long-term strategic approach to freshwater management that spans changing Governments and monitors regional council implementation.

Question 8. Do you have any other comments?

No
Questions 9 Te Mana o Te Wai

PCC supports the Te Mana o te Wai hierarchy of obligations.

Question 11 is it clear what regional councils have to do to manage freshwater in a way consistent with Te Mana o te Wai?

No. PCC suggests that the requirements are open to wide interpretation and results in quite different approaches to freshwater management, some of which do not expressly meet the intent of the NPS-FM. Consistent and explicit guidance on requirements needs to be set out.

Question 12. Will creating a long-term vision change how councils and communities manage freshwater and contribute to upholding Te Mana o te Wai?

Long term visionary statements need to be balanced with agreed action plans for individual catchments to ensure we can take action in shorter timeframes.

Question 17. Do you support the proposal for a faster freshwater planning process? Note that there will be opportunity to comment on this proposal in detail through the select committee process on the Resource Management Amendment Bill later this year.

PCC supports a faster freshwater planning process, and set timeframes for regional councils to amend their plans. There has recently been a large amount of national direction meaning parts of regional policy statements and plans are quickly becoming out-of-date.

Changing planning documents and the process to do so will come at a huge community cost. Government should provide tools, guidance, science and information to ensure quality plan making.

Updated plans and higher standards will put a financial burden on each territorial, particularly in terms of asset management (see Wellington Water’s submission on our behalf). There will also be an administrative and compliance burden for new consenting, should regional councils decide to undertake s128 reviews, or introduce new rules requiring new consents.

Reduced appeal rights are acceptable if the consultation and hearings processes are very robust. We acknowledge that the intended outcome is to provide for reduced costs and a more efficient process. However, adequate support for less resourced groups is necessary to ensure that all of our community has the opportunity to participate.

Question 18. Does the proposal make the roles and responsibilities between regional councils and territorial authorities sufficiently clear?

PCC supports the intent of “section 3.4 – integrated management” of the draft NPS-FM. The approach Council is taking towards integrated management in its current District Plan Review is broadly consistent with this section.

However, the elements underlined below need further consideration and perhaps be mandated in the NPS-FM:

Information note:

The following are examples of the kinds of methods territorial authorities could use to comply with clause 3.4(6):

- Regulating impervious surface cover and/or requiring on-site infiltration;
- Requiring treatment of contaminants at source;
- **Using zoning/designations to avoid all, or certain types of development in areas where the effects on freshwater could not be adequately managed;**
- **Provision of green infrastructure (especially for stormwater management);**
- **Use of best practice Water Sensitive Urban Design or Low Impact Design techniques.**

It is unclear how treatment of contaminants can be addressed by a territorial authority in a District Plan under section 31 of the RMA.

One option could be to be more directive around the role of regional policy statements in clauses 2 and 3. Regional policy statements could clarify the role of territorial authorities in integrated water management.

Accompanying guidance would be useful about what would need to happen – for instance, would there need to be a transfer of functions? There would be if they see contaminants being managed by a territorial authority as this is contrary to section 15. Examples of different approaches would be useful to assist councils implement the policy.

PCC supports the onus being put on regional authorities to manage contaminants at source, including sediment. Territorial authorities generally do not have capacity or capability in water quality or quantity management as this requires specialist expertise. If territorial authorities were to move into this space, there would need to be more onus put on regional authorities to ensure that there is necessary information available to inform district planning.

Sequencing is important to ensure that territorial authorities are not having to try to give effect to clauses 5 or 6 before the regional council reviewed the relevant regional policy statement and regional plan(s). There needs to be a clear transitional provision to ensure too high a burden is not placed on a territorial authority. For example, Part 4 directs territorial authorities to give effect to the NPS-FM at its next plan review, this means that a District Plan review may occur prior to review of the relevant regional policy statement and regional plan.

The wording between clauses 5 and 6 is also inconsistent and could be revised.

Furthermore, it is unclear exactly how a designation can “avoid all, or certain types of development in areas where the effects on freshwater could not be adequately managed”. Does this mean for instance that land should be designated for open space purposes if there are water management issues in receiving water bodies? Given this would generate result in land acquisition, further analysis is required into how this would be funded. It would likely be at prohibitive cost to most territorial authorities.

The most significant impact of the proposed NPS-FM and the new NES wastewater is on the Council as asset owner and operator. New regulatory requirements and potentially new consenting regimes with their compliance burden need to reflect ratepayer ability to pay and whether central government can assist local authorities with alternative funding to meet requirements.

As discussed earlier, the practical application of riparian management needs to be coherent and adequately resourced. Riparian management requirements and fencing of streams need to be considered early if subdivision of rural land is taking place – this could be considered as part of policy evaluation; in terms of benefits accrued.

**Question 20.** Do you think the proposed attributes and management approach will contribute to improving ecosystem health? Why/why not?
The proposed attributes and management approach will contribute to improving ecosystem health. They will likely do this by providing a structured framework, clear targets and a coherent process.

**Question 21. If we are managing for macroinvertebrates, fish, and periphyton, do we also need to have attributes for nutrients that have been developed based on relationships with aquatic life?**

Yes. Managing nutrients is integral to ensuring healthy freshwater systems.

**Threatened Indigenous Species**

**Question 22. Do you support the new compulsory national value? Why/why not?**

Yes. However it is necessary to provide clarity on requirements.

**Fish Passage**

**Question 23. Do you support the proposed fish passage requirements? Why/why not?**

PCC supports fish passage requirements. However, further consideration needs to be given to how the requirements are practically implemented, including who pays, and when upgrades should be implemented either through consent renewals new consents. Requirements need to be based on a good understanding of the catchment, habitats available and whether fish passage will provide access throughout the catchment.

Flood protection maintenance activities which present barriers to fish passage should be addressed in any requirements.

**Question 24. Should fish passage requirements also apply to existing instream structures that are potentially barriers to fish passage, and if so, how long would it take for these structures to be modified and/or consented?**

Barrier removal should be addressed during the course of renewal and upgrades to instream structures or as part of a catchment wide programme addressing fish passage.

**Wetlands**

**Question 25. Do you support the proposal to protect remaining wetlands? Why/why not?**

PCC supports the proposal to protect remaining natural wetlands. Wetlands are a vital part of maintaining healthy freshwater ecosystems, maintaining water quality, ensuring water reservoirs and mitigating flood flows. Their current rate of loss is damaging our ability to maintain healthy freshwater resources and having a significant impact on our estuarine systems.

Building a constructed wetland for treating stormwater runoff as part of a land development should also be permitted.

**Question 26. If this proposal was implemented, what would you have to do differently?**

Subdivision consenting will be required to address wetland management. Given the importance of wetlands to freshwater systems, and their substantive loss across the country, detailed guidance on consenting requirements should be a priority, along with explicit definitions of wetlands.

**Streams**

**Question 27. Do you support the proposal to limit stream loss? Why/why not?**
PCC supports the intent of proposal to limit net loss of streams. The proposal needs to be revised to provide clarity and certainty as to which stream orders the proposal applies. For example, does the proposal apply to ephemeral streams?

However, the NPS-FM and NES freshwater as drafted will have an impact on our greenfield growth areas, and our ability to meet housing capacity requirements under the NPS-UDC. Given Porirua's hilly terrain, future urban development will be require a level of cut and fill re-contouring to occur to enable the future urban development of land within the district. As part of this piping of streams is likely to be required.

The "avoid" policy is onerous in light of recent case-law, and the associated application of non-complying and prohibited activity status in regional plans. PCC considers that it is appropriate that a less onerous activity status is considered for identified urban growth areas, as these have already been assessed and approved as being appropriate for development at a strategic level.

To meet freshwater outcomes, urban development needs to be done in line with best practice water-sensitive urban design. Government could support councils and the development/construction sector with guidance and support, including best practice development on hilly terrain.

**Question 28.** If this proposal was implemented, what would you have to do differently?

Current approaches to water sensitive design would have to be brought into effect sooner along with a work programme to assist developers understand and address requirements.

**Question 29.** Do the 'offsetting' components adequately make up for habitat loss?

It is a challenge to adequately make up for habitat loss with offsetting. Offsetting should only be used in line with best practice guidance, i.e. after avoid-remedy-mitigate hierarchy is exhausted.

**New Bottom Line for Nutrient Pollution**

**Question 30.** Do you support introducing new bottom lines for nitrogen and phosphorus Why/why not?

Bottom lines for nitrogen and phosphorous are integral to ensuring overall healthy freshwater resources.

**Question 31.** If this proposal was implemented, what would you have to do differently?

PCC wastewater collection and treatment infrastructure renewal programmes are intended to progressively address nutrient levels. Any proposals should reflect council capacity to pay and potential other sources of revenue to support any necessary changes.

**Reducing Sediment**

**Question 33.** For deposited sediment, should there be a rule that if, after a period (say five years), the amount of sediment being deposited in an estuary is not significantly reducing, then the regional council must implement further measures each and every year? If so, what should the rule say?

The question reflects the need to provide a more detailed approach to implementation throughout the proposals. Monitoring, compliance and enforcement are central to the success of any policy. The NPS-FM is largely silent on these matters and as a result may be ineffectual.

**Question 35.** If this proposal was implemented, what would you have to do differently?
Sediment management requires a co-ordinated approach to consenting, monitoring and enforcement across a range of organisations. Jurisdictional boundaries need to be established and appropriate resourcing applied to a programme of work.

A better articulated approach to sediment management is essential if sediment is to be adequately managed.

**Minimum flows**

**Question 37. Is any further direction, information, or support needed for regional council management of ecological flows and levels?**

A fundamental issue facing stream and river management is over allocation. Regional authorities need to substantively change allocation practices if we are to achieve necessary minimum flows, and they will require support throughout the process to do so as it will be fraught with legal challenge.

**Questions 43 – 45: Drinking water NES (WWL)**

Refer to Wellington Water’s submission on our behalf.

**Questions 46 – 50: Wastewater NES (WWL)**

Refer to Wellington Water’s submission on our behalf.

**Questions 51 – 78: Freshwater NES**

We would like to be heard if further consultation on freshwater NES

Refer to Wellington Water’s submission on our behalf.

**Question 79. Do you think there are potential areas of tension or confusion between the proposals in this document and other national direction? If so, how could these be addressed?**

The substantive tension is between the improvement of freshwater and demands of urban growth. The NPS-UDC requirements are often at odds with good freshwater management set out in the NPS-FM.

With the increase in national direction, there is risk of inconsistencies between the drafting of provisions. A thorough analysis of each document and is required and consequential amendments made to each document to ensure national consistency.

**Question 80. Do you think a planning standard is needed to support the consistent implementation of some proposals in this document? If so, what specific provisions do you consider would be effectively delivered through a planning standard tool?**

The NPS-FM is silent on monitoring, compliance and enforcement, all of which need to be adequately addressed if the NPS-FM is to make substantive gains for freshwater management.

National guidance is useful. Support through relationship managers, funding and training will be necessary.