

20 April 2020

Hon David Parker
Minister for the Environment
Private Bag 18888
Parliament
Wellington 6160

Hon Damien O'Connor
Minister of Agriculture
Private Bag 18888
Parliament
Wellington 6160

Who's
putting local
issues on
the national
agenda?

We are.
LGNZ.
Te Kāhui Kaunihera o Aotearoa.

Dear Ministers Parker and O'Connor,

We wish to commend you and your colleagues for the courageous and decisive leadership you have shown in recent weeks in responding to the COVID-19 pandemic. In support of your efforts, regional government is focussed on leading our regional community welfare responses through our Civil Defence and Emergency Management groups, while maintaining our essential services.

As is the case for central government, COVID-19 is having major displacement effects on our work. Councils are rapidly reconsidering their annual plans and re-evaluating assumptions for our 2021-2024 Long Term Plans, particularly as a result of expected reductions in investment income, cost-recovered revenue and pressure on rates. In light of this and the release this week of *Our Freshwater 2020*, the Regional Sector Water Subgroup (RSWS) has considered the previous advice we have provided in respect of the current freshwater reform package.

The RSWS and the Regional Sector strongly support the goals of the Essential Freshwater Package and we believe the Government should continue to progress the reforms, albeit in a manner that is responsive to the social and economic environment that lies ahead. Moreover, we believe we can progress the reforms in a manner that holds the line on further degradation while scaling up restoration work that contributes to economic recovery. We want to work with you to finalise a package that ensures our collective implementation achieves substantial improvements to our freshwater environments while supporting economic recovery.

Focus on the NES and the regulations

The RSWS holds the view that the proposed NES and regulations will deliver significant improvements to our freshwater quality and, delivered at national level, will lower transaction costs particularly for the regional councils as environmental regulators. We fully support giving effect to the NES and the regulations, and we are appreciative that our officers are currently working with your officials to finalise these. We are keen to ensure we have the necessary tools to ensure that the economic recovery from COVID-19 does not come at a cost to the environment.

We need to phase implementation

We remain concerned about the pace and scale of work proposed under the revised NPS-FM and make the case again for phased and prioritised implementation. As a result of COVID-19, we are even more concerned that we may have less capacity and resources at our disposal than under business-as-usual conditions.

We see phasing of freshwater reforms to the most at risk catchments as a critical requirement to overcome capacity and constraint limitations. We also agree with the Independent Advisory Panel's view that recently progressed freshwater plans should not be needlessly revisited, and councils should continue to pursue their current work programmes. Indeed, in many catchments we see opportunities for accelerated progress of existing work to contribute to economic recovery.

We strongly recommend setting the plan-making deadline based on sound analysis of what is achievable through a prioritised approach and we stand ready to work with your officials on determining what this timetable looks like.

Water quality limits

Over 30 years of freshwater science tells us no two rivers are alike, nor are the factors affecting their health. We believe New Zealand needs tailored freshwater solutions to target our collective efforts to the catchment-specific factors affecting freshwater ecosystem health.

Consistent with our previous advice, we remain deeply concerned at the proposed national bottom lines for Dissolved Inorganic Nitrogen and Dissolved Reactive Phosphorus. You will already be aware of our misgivings about the statistical validity of the causal relationship between these nutrients and ecological health, so we won't expand on our concerns here.

While we strongly support ecosystem health as a mandatory attribute, we believe that ecological limits for DIN and DRP (as opposed to toxicity limits) should only apply to catchments where science demonstrates these to be material drivers of ecosystem health, or in other words should not be unnecessarily regulated for no obvious benefit. We appreciate this is a complex issue whereby you are balancing contested science and regulatory certainty.

We consider there are three possible approaches, each with their advantages and disadvantages. An 'exceptions regime' could involve DIN and DRP limits applying by default unless it can be demonstrated to the satisfaction of a Freshwater Panel that different limits, or no limit, are necessary for maintaining or improving ecological health. Alternatively, a 'targeted regime' could involve national limits applying where it has been demonstrated to the satisfaction of a Freshwater Panel that this is necessary for maintaining or improving ecological health. The third approach, in the absence of a more elegant solution for the time being, would be a 'lower ceiling approach' that focuses on adopting more stringent national bottom lines for toxicity that will address waterbodies with the most severe nutrient issues.

We recognise each of these options involve trade-offs in terms of regulatory certainty, but we consider each of these represents a preferable solution to the Independent Advisory Panel's proposed 'Appendix 2B' solution. We are pleased that the IAP correctly identified the shortcomings in the original proposal but we believe their solution will have the practical effect of still requiring DIN and DRP limits to be set for waterbodies where this is not required.

Monitoring needs more consideration

The draft NPS-FM identifies 23 attributes that provide a framework for management and which must be monitored. Monitoring all these attributes will be a significant task, and impose large additional costs on communities, even when in some cases the specific attributes being monitored on some waterways have no meaningful impact on the health of that system.

In addition, setting attributes such as Fish-IBI, LakeSPI and ecosystem metabolism appear premature because the science is still evolving and/or their applicability and appropriateness varies according to the nature of waterbodies. We remain concerned that applying these attributes as proposed could lead to perverse outcomes and impose unnecessary costs. Therefore, we would like to work with you on prioritising and phasing a ramped-up monitoring programme based on what needs to be measured to ensure we avoid unnecessary cost and effort.

Working on non-regulatory means

As we return to “normal” (albeit a new normal) we see significant potential to work with you on opportunities to improve our water quality through non-regulatory means that can also contribute to economic recovery. Investing in riparian planting and stock exclusion, tree planting for erosion control, and developing and enhancing wetlands, are example areas we believe can contribute to our Regional Economic Recovery Plans, provide employment and improve freshwater outcomes. While this work inevitably needs funding, we believe there are opportunities to combine our resources to contribute to regional recovery and offset other costs to the government arising from unemployment and reduced economic activity.

Partnership

In concluding this letter, we would like to re-emphasise the spirit in which it is sent. We share your commitment to improving freshwater quality. However, we can only proceed as fast as constraints and resources allow us. In addition and with particular reference to our earlier comments on water quality limits, if the interventions are not accepted as soundly based in science and regulatory practice, then the integrity of the whole package risks being eroded with further consequences for the delivery of the results we all seek. We sincerely wish to work with your Government on meeting your goal within capacity constraints across the system and the economy, and growing it progressively so that we lift the quality of our environment for future generations to enjoy.

Ngā mihi,



Doug Leeder
Chair, Regional Sector
Local Government New Zealand



James Palmer
Chair,
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