

27 April 2017

Clean Water Consultation 2017
Ministry for the Environment
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SUBMISSION on the Proposed Amendments to the National Policy Statement for Freshwater Management (2014)

Introduction and regional context

Thank you for the opportunity to submit on the Proposed Amendments to the National Policy Statement for Freshwater Management (2014) (NPS-FM) as set out in Clean Water.

Overall Gisborne District Council (Council) support the intent of the proposed amendments. In our view the amendments provide a better way to improve freshwater for recreation. The proposed amendments also provide a clearer approach for regional authorities implementing the national requirements across the country.

We notified our Regional Freshwater Plan on 10 October 2015 and have received submissions and further submissions. Hearings were held between July and December 2016. We expect the hearings panel decision to be out in mid-2017. At this stage we anticipate a further plan change to our Regional Freshwater Plan will be required to implement the proposed amendments to the NPS-FM.

This submission is broken down into two parts; Part A and Part B. Part A sets out where our views depart from the views set out in the proposed amendments or where we consider that an alternative planning approach would be more appropriate. There are four key parts of the proposed amendments where we seek decisions sought. These are:

1. notification requirements for incorporation of changes into Regional Plans which have implemented the NPS-FM 2014;
2. funding to improve freshwater;
3. additional monitoring requirements; and
4. amendments to the E. Coli attribute state.

Part B outlines where we support the proposed amendments and therefore seek no further changes. These are the proposals around stock exclusion and managing nitrogen and phosphorus.

Part A – Parts of the proposed amendments where Gisborne District Council oppose, oppose in part and seek decisions

1. Notification requirements for incorporation of changes into regional plans which have implemented the NPS-FM 2014

A number of the proposed amendments are consistent with the approach we have taken in our Freshwater Plan. A good example of this is the fencing off of dairy cows, to keep stock out of waterways. However where the approach we have taken is not consistent with the proposed amendments, a formal plan change will be required under Schedule 1 of the Resource Management Act (RMA). Public notification is a particularly onerous task for Councils who have already spent many years progressing towards a decisions version of their regional plans. We believe that it would be reasonable for the NPS-FM to allow changes to regional plans (to implement the proposed amendments) to be progressed under Section 55 of the RMA where local authorities have already reached a decisions version of their regional plan which implements the NPSFM-2014.

Decision Sought

Gisborne District Council request the following amendment, to:

- provide for amendments to be made to regional plans through Section 55 of the RMA where a decisions version of a regional plan is operative to implement the NPS-FM 2014.

2. Funding to improve freshwater

Overall we support the clean water reforms providing funding to regional authorities to improve the management of freshwater quality and quantity. We believe that although the regional rules set out in our Freshwater Plan will prevent freshwater quality and quantity from getting worse, we do believe that localised projects are required to improve the situation especially where the current state is below a national bottom line.

We also support the significant contribution central government is providing (\$100, 000, 000 NZD) to improve freshwater management throughout the country. This contribution seems appropriate for the level of water quality and quantity issues we have nationally. However, in our view, two things this subsidy does not consider is providing:

- smaller grants where projects to improve water quality are of a lesser value than \$400, 000; and
- allowances for co-funders to provide less than 50% of the overall fund where it is difficult to source from a low income community.

There are a wide range of water management issues in the Gisborne Region. Improving E. Coli in isolation is estimated to require nine projects to ensure 90 percent of rivers become swimmable by 2040 (currently only 75% of our waterbodies are considered swimmable under the new standards). It is also likely that a number of other projects will need to be undertaken to improve other water quality attributes which are below the minimum acceptable state or where the objectives and targets set under the NPS-FM require improvement.

We agree that more often than not the cost of improving water quality through projects can be considerable. However, there are also smaller projects which can be undertaken which would meet the criteria set out in the Clean Water, but would be under \$400, 000 in total cost. A recent example of this in the Gisborne Region is the 'Lower Te Arai and Waipaoa Inanaga Spawning Enhancement Project' which has been progressed with a \$65, 000 grant from MFE. This project has not been supported by any further funding from Council, excluding staff time, but has resulted in a significant water quality issue being addressed.

It would be helpful if the funding criteria set out in Clean Water provided for smaller grants to be granted where there is sufficient evidence to prove that a less expensive project would deliver a significant improvement to freshwater management with a total cost of less than \$400,000.

The cost of delivering these projects to meet the additional requirements of the NPSFM is considerable for Councils with a small rating base and large regional environments to manage. To provide some context, to generate \$300,000 it would require Gisborne District Council to increase rates by 1%. Because of the comparatively low median income in the Gisborne District there is little appetite to increase rates to pay for such initiatives. Therefore, in our view, it would be reasonable for the clean water document to be amended to provide allowances for regional projects where co-funded contributions are less than 50% of the overall project cost where there is sufficient evidence to prove the local communities cannot fund a portion of the project, in circumstances where the improvement to freshwater management is likely to be significant.

Decision Sought

Gisborne District Council request the following amendments, to:

- reduce the proportion of financial contribution required for projects in low socio-economic areas; and
- provide opportunity to apply for smaller grants where there is sufficient evidence to prove that cost of improving the management of the freshwater is less than \$400,000.

3. Additional monitoring requirements

The proposed amendments to the NPS-FM require significantly more rigorous monitoring requirements over the summer months than what is previously set out in 'Microbiological Water Quality Guidelines for Marine and Freshwater Recreational Areas'. This is especially in response to the requirements set out in "Appendix 5: Monitoring methodologies for Policy CB1" which require daily monitoring where waterbodies are below 260 E. coli per 100mL. We see this requirement as a new alert monitoring regime with statutory weight, which sits on top of the existing MFE guidelines. Overall Council support an alert monitoring approach, however in our view there are some waterbodies and the circumstances of wet weather events which should be excluded from this new requirement.

Many waterbodies in the Gisborne Region either never or seldom get below 260 E. coli per 100mL. Further to this, many of these waterbodies are significant distances from Council offices. For state of the environment reporting we believe that all waterbodies should be monitored monthly. However, daily monitoring during the summer bathing period would provide no further benefit if we know the level of E.Coli is not anticipated to drop below 260 E. coli per 100mL. It should also be noted that it takes 36 hours for a bacterial test result, so daily monitoring in these circumstances will deliver little added value. It would be more appropriate in our view for the amendments to the NPS to provide more flexibility on monitoring in these waterbodies.

The Gisborne region experiences higher E. Coli readings in surface water during periods of heavy rain. This is more prevalent in the hill country environments with stock grazing in close proximity to riparian margins. Although we believe that it is good to have data for state of the environment monitoring, in our view the alert monitoring requirement set out in the proposed amendments to the NPS-FM should be excluded during and for 48 hours after a heavy rain event.

The proposed amendments do not clarify the extent of monitoring required during the bathing season. Council's monitoring team currently only monitor waterbodies once per week at known

swimming spots. The proposed amendments insinuate that all surface waterbodies which are 4th order and above require weekly monitoring, even where they are not known swimming spots.

In our view it would be a very onerous requirement on regional authorities and of little benefit to local communities to monitor all 4th order rivers for swimming, where the spot is not identified as a known swimming location. In our view the proposed amendments should provide local authorities with the discretion to be able to determine what waterbodies require weekly monitoring during the summer period.

It should also be considered that we have a number of known swimming locations in our region which are below 4th order. Consequently it would also be helpful for the proposed amendments to clarify as to whether the Council can set objectives for surface water which does not meet 4th order criteria, but are important swimming locations for local communities.

Appendix 5 identifies a new requirement to notify the public for days when waterbodies exceed 260 E. coli per 100ml. It seems reasonable in our view to require public notification through the Gisborne District Council website. It would be helpful for the requirements of public notification to be clearer than what is set out in the proposed amendments.

Decision Sought

Gisborne District Council request the following amendments, to provide:

- a less rigorous monitoring regime for waterbodies which either never or seldom have E. coli readings of less than 260 E. coli per 100mL;
- an amendment within the proposed Appendix 5 to allow for a break in alert monitoring during and for the 48 hours following heavy rainfall events, but provide a requirement to ensure the public is notified through the Council website;
- regional authorities to allow for weekly monitoring in the summer bathing period only in surface waterbodies which are known swimming spots as opposed to all waterbodies 4th order and above;
- allowances for regional authorities to develop objectives for freshwater bodies which do not meet the 4th order criteria, but are important swimming spots for local communities; and
- more clarity as to the requirements of public notification where waterbodies exceed 260 E. coli per 100mL.

4. Amendments to the E. Coli attribute state

The proposed amendments make significant changes to the numeric and attribute states for E. Coli. We support the proposed approach to link the narrative approach for swimmability, rather than occasional immersion in the A Band. We also agree that the proposed approach better explains that E. Coli levels within a waterbody are constantly changing, especially related to extreme climatic events such as flooding and that a proportion of the time will not be appropriate for swimming.

The most significant change is allowing for swimming where waterbodies have less than 540 E. Coli per 100mL less than 5% of the time as an A Band. Essentially this is the same as the B Band (95th percentile) set out in the NPS-FM 2014. In our view this is an overall reduction in the existing standards with a more lenient approach on land users. We believe that flexibility should be retained for regional authorities to provide a more restrictive banding where the local community desire. It would be helpful if this was clarified in the NPS-FM.

The proposed amendments to the proposed attribute table for E. Coli are not consistent with the approach taken in the other attribute tables. For instance, the amended E. Coli attribute table

only has five attribute states, rather than four. There is also no national bottom line for E. Coli and under the NPS-FM 2014 there was. Each of the other attribute states have bottom lines. In our view there needs to be a consistent approach across the board for ease of use for plan users. We request that a national bottom line is included for E. Coli.

Decision Sought

Gisborne District Council request the following amendments, to:

- allow regional authorities to provide more restrictive E. Coli numeric attribute state and narrative attribute states than set out in the proposed amendments whereby the new standards will allow for a degradation to water quality within the water management unit; and
- provide a consistent approach between the E. Coli table and other attribute tables, such as the inclusion of the national bottom line and also maintaining four attribute states rather than five.

Part B – Parts of the proposed amendments which Gisborne District Council support

Stock exclusion and managing nitrogen and phosphorus

We support the new stock exclusion requirements. In our view it is a practical and pragmatic approach to reduce E. Coli in surface water throughout the country. In particular we support the option for regional authorities to provide:

- more stringent requirements for stock exclusion where required; and
- alternative compliance paths for waterbodies which are particularly difficult to be fenced off.

We also support the proposed approach to manage nutrient inputs for periphyton.

We request no further amendments.

Conclusion

The overall intent of the proposed amendments are supported by Council. However, we respectfully seek a more appropriate approach in regards to providing:

- non-notification of plan changes where a regional authority has already reached a decision on a regional plan to implement the NPS-FM 2014;
- funding regimes which consider the importance of smaller projects and the lack of ability some communities will have to contribute such high proportions of the total project;
- a monitoring framework which can be delivered by Council's with small teams;
- flexibility to enforce a more restrictive E. Coli banding than is set out in the proposed amendments; and
- provide a consistent approach for all attribute tables across the NPS-FM.

Parts of the proposed approach which Council support are the stock exclusion provisions and managing nitrogen and phosphorus.

We believe that the decisions sought on MFE's proposed amendments to the NPS-FM will increase the number of swimmable waterbodies in the Gisborne Region.

For further enquiries please contact:

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