

# Your submission to Clean Water

Primary Land Users Group (Bruce Cameron)

## Clause

What do you think about the proposed amendments to the Freshwater NPS?

## Notes

Clean Water Consultation 2017 Thank you for the opportunity to comment on the above discussion document. This is a submission for and on behalf of PLUG (Primary Land Users Group). Our comments are as follows: PLUG supports the recognition of the need for a balance to be struck between economic and social goals on the one hand and environmental protection on the other. That said we are concerned the Discussion Document and suggested changes to the NPS will do little to usefully advance the need for a balance between the best environmental outcome within the context of a functioning economy that has been a corner-stone of the RMA since 1991. More specifically, we consider the Discussion Document perpetuates rather than resolves regulatory uncertainty by, for example: 1. The proposal is for stock to be kept out of waterways of a metre width flowing from catchments of less than 15 degrees slope. There is no statement that such fencing will achieve the freshwater macro-invertebrate communities considered sufficiently 'crucial' to freshwater ecology to justify the recommended NPS changes requiring monitoring of macro-invertebrates by Regional Councils. Indeed, the recommendation is that 'where monitoring indicates freshwater objectives are not being met, regional councils are required to establish methods, for example action plans, to respond to the results.' 2. Where 'significant practical constraints' (undefined) are encountered a landowner can apply to 'the relevant regional council for permission to instead develop a 'stock exclusion plan' (or) alternative mitigations' to manage the environmental impacts of stock access to water bodies. There is no discussion or outline provided of what those alternative mitigation methods might be, how they relate to 'Good Management Practices', unacceptable change in macro-invertebrate assemblage and what decision should be made where the 'alternatives' recommended by regional councils are incompatible with individual and regional economic and social goals. 3. The discussion document suggests an objective of the amended freshwater NPS is to clarify that 'water quality is at least maintained' within a 'freshwater management unit' within a catchment. The same section of the document unhelpfully states that 'it is currently unclear how regional councils can demonstrate that water quality will be at least maintained.' This latter statement would appear to bring into question the value of macro-invertebrate monitoring and raise questions as to the value of the prescribed fencing requirements. 4. The discussion document states that regional councils must establish in-stream objectives for concentrations of DIN and DRP when they are managing for the periphyton attribute. There is no discussion of how DIN and DRP relate to other proposed measures such as the fencing requirements, the exercise of Regional Council discretion related to 'riparian buffers' and other 'best management practices' for water quality. 5. The National Objectives Framework Objective CA1 is 'to provide an approach to establish freshwater objectives for national values, and any other values that (a) is nationally consistent and (b) recognises regional and local circumstances. Assuming 'an approach to establish' equates to a national objective, the wording is confusing to the extent that it offers no direction where national consistency is incompatible with regional and local circumstances. The discretion for regional councils to apply alternative mitigations or Best Management Practices referenced above would seem to risk national inconsistency and a perpetuation of the water quality outcomes arising from regional council's application of the RMA since its enactment in 1991. 6. The stated target 'that 90% of our rivers and lakes are swimmable by 2040 could be read as inconsistent with the requirement at 3.3 that water quality be maintained or improved. The statement within this section that 'we propose clarifying that regional councils can demonstrate water quality is at least maintained' suggests 'improvement' in water quality is only aspirational. Of greater concern, it can be read as suggesting the authors of the discussion document favour grand parenting pollution rights and effectively rewarding those land managers who have done the least to minimise the effects of their land use with the greatest future land use flexibility and therefore greatest land value. It appears the intent is to establish at NPS level the concept of 'polluter prospers', notwithstanding the assumption in the RMA that the adverse environmental effects of resource are internalised by the resource user. PLUG formed in response to the serious concerns of its membership at the economic and environmental implications of Waikato Regional Council's Plan Change 1 (PC1). We are disturbed that many of the concerns we have with regard to PC1 could be perpetuated by adoption of a Freshwater NPS drafted to reflect the content of the discussion document. There is little or no reflection in the discussion document that the declines in water quality this NPS is seeking to address have arisen over decades of management by regional councils who it is proposed will continue to exercise subjective discretion at the property and sub-catchment scale. Our recommendation is that the Freshwater NPS be amended to prescribe: 'Adoption of Best Practicable Option (BPO) management of currently permitted land uses in clear and quantitative terms. Land uses could occur as of right (Permitted Activity) provided management applied the prescription. Variation from the prescription could be sought and granted on a discretionary bases where an application justifying the variation of standard conditions was made. The majority of regional council effort should be devoted to the policing and enforcement of the prescribed conditions of a land managers chosen activity. Ecological monitoring would be limited to determining the extent to which water quality changed over time ' BPO's should be prescribed in sufficient detail to reflect significant natural limitations applying at the sub-catchment level. The objective should be to provide clear scope for a range of land uses reflective of established rural land uses, with the permitted activity prescription more or less punitive depending on the local natural environment. The range of national BPO prescriptions would reflect the general conditions in a region and catchment and accepted optimal land use practices, prescribed so as to avoid protracted debate as to matters of detail. BPO prescriptions would be established for a prescribed period reflective of reasonable investment depreciation (10 years?) and recognised as reviewable over time and understanding and technology evolved. PLUG is opposed to the concept of grand parenting except to the extent that past land use reflects the prescribed BPO standards for the particular activity and sub-catchment and for the duration that a particular prescription remains the Best Practicable Option. To that extent we consider a permitted BPO land use akin to the Resource Consent conditions applied by those operating established infrastructure under the RMA now. The later apply for the period provided for in the Consent and can be re-established on expiry provided they remain the best practicable option. The grand parenting of pollution rights to currently permitted land uses on the basis of current land use is to reward those land managers who have made the least

effort to minimise pollution in the past. Grand parenting to a particular date has the perverse environmental outcome of incentivising the individual to maximise the adverse effects of their land use up to the allowed limit. Grand parenting discourages innovation and the identification of alternative land management prescriptions and land uses with lower impacts on the environment, for fear that the loss of “existing rights” represents a loss of land use flexibility and the attendant “highest & best use” capital value of that land. Loss of land use flexibility (within BPO-prescribed environmental limits) is a particular risk in an open trading economy where future market demand and the value of commodities can be predicted but not guaranteed. Grand parenting based on current land use patterns precludes early and comparatively low or even no-cost improvement in NZ water quality. Applying the cost-effective BPO prescription to a particular activity reduces its environmental impact and should occur regardless of the current state of the local receiving environment.