

SUBMISSION TO THE MINISTRY FOR THE ENVIRONMENT

CLEAN WATER CONSULTATION 2017

5 May 2017

1. The Canterbury Mayoral Forum thanks the Ministry for the Environment (the Ministry) for the opportunity to comment on the latest programme of initiatives for freshwater management, including proposed amendments to the National Policy Statement for Freshwater Management as set out in the Clean Water Package 2017.
2. The Forum offers the following submission on the basis of our member councils' statutory roles and responsibilities under the Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA).

Context

3. The Canterbury Mayoral Forum comprises the Mayors of the ten territorial local authorities in Canterbury and the Chair of the Canterbury Regional Council (Environment Canterbury), supported by our Chief Executives. The purpose of the Forum is to promote collaboration across the region and to increase the effectiveness of local government in meeting the needs of Canterbury's communities.
4. All Canterbury councils actively participate in the Forum: Kaikōura District Council, Hurunui District Council, Waimakariri District Council, Christchurch City Council, Selwyn District Council, Ashburton District Council, Mackenzie District Council, Timaru District Council, Waimate District Council, Waitaki District Council and Environment Canterbury.
5. The Forum work programme is implemented by the Canterbury Chief Executives Forum and the Canterbury Policy Forum. For matters that impinge on planning, the Policy Forum is supported by the Canterbury Planning Managers Group.
6. The following submission has been developed with input from the Policy Forum and other relevant staff from our member councils. The submission focuses on matters of general concern for the region as a whole where there is general consensus amongst councils.

Mayors standing together for Canterbury.

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7. Individual councils have developed their own responses to the Clean Water Package, reflecting their local circumstances. It is not intended that this submission should detract from any independent council submissions. Additional comments are provided where differing views exist.
8. In Canterbury, freshwater management is coordinated through the Canterbury Water Management Strategy (CWMS). This is a collaborative framework for all fresh water related activity in our region, with extensive community engagement and close involvement of Ngāi Tahu rūnanga. There are ten established zone committees to reach consensus on water management issues within their zones.

General comments

9. The Forum is generally supportive of the proposed amendments to the National Policy Statement for Freshwater Management (NPS-FM) and latest programme of freshwater initiatives. Our member councils are actively involved in ongoing work for improved management of Canterbury region's freshwater resources, through the CWMS and implementation of Zone Committee priorities, and a range of local government roles and functions including planning, consenting and engagement with our local communities and with Ngāi Tahu rūnanga.
10. Decision making and finding appropriate management solutions should be retained at a local and regional level to ensure that local aspirations, needs and conditions are provided for. The Forum notes in the NPS-FM preamble the principle that it is up to communities and iwi, through regional councils to set pathways and timeframes to meet national bottom lines. This principle aligns with the collaborative approach applied in Canterbury through the CWMS.
11. We note that some recommendations made during the 2016 consultation on Next Steps for Freshwater are reflected in the Clean Water package. This includes NPS-FM amendments that have provided clarity on areas previously perceived as being ambiguous. In this submission we note areas where further clarity or consideration is needed.

Swimming targets

12. The Forum is supportive of the Ministry's objective to improve the water quality of rivers and lakes for swimming and the requirement to report through the setting of new swimming targets. This aligns with community aspirations to improve water quality for swimming. One council, Christchurch City has suggested that the target should be increased to 100% by 2040.
13. The Forum however has some concerns about the criteria for 'swimmability' and recommends that there is more robust criteria in defining 'swimmability'. To be able to set targets and measure success at a local and regional scale an understanding of the data used to assess swimmability at a national scale and produce the swimming maps is needed. The Forum recommends information on swimmability should include input of local knowledge. Clarity on the requirements for determining swimmability based on *E.coli* should be clear and included within one document rather than distributed over different documents, regulations or web pages.
14. The Forum also has concerns about lack of consistency of the terminology used with respect to 'swimmability' in the consultation document, NPS-FM and supporting documentation on the

Ministry's website. For example, in some parts water state is described as A, B, C in some parts but elsewhere blue, green, yellow is applied. The Forum recommends that a consistent approach is applied and that this relates to the state of the water body.

National Policy Statement for Freshwater Management Amendments

Swimming values

15. The Forum supports the NPS requirement that regional councils must improve the suitability for swimming for rivers and lakes and associated reporting requirements. However, the Forum has concerns about the methodology used in relation to *E.coli* attributes applied and unintended consequences that may arise.
16. The monitoring methodologies in Appendix 5 appear to overlap with the 2003 Ministry of Health and Ministry for the Environment's microbiological water quality guidelines for recreational water. This creates confusion between long term monitoring of water quality improvements for swimming and surveillance monitoring for public health (i.e. is it safe to swim here). Environment Canterbury has recommended Appendix 5 is removed to prevent confusion.
17. The Forum notes the change in the NPS-FM *E. coli* attribute table which includes percentage of exceedances over 540 *E.coli* compared to number of *E.coli* per 100ml in the NPS-FM 2014. There are concerns that this seems diminish or relax standards compared to the current NPS-FM 2014 and the proposed amendments do not include all the qualifiers to calculate inclusion in each attribute state. The Forum recommends that other tests used to assess swimmable categories within the NPS-FM as detailed on the Ministry's website (table 1) which has median, 95th percentile and percentage of samples above 260 *E.coli* are included. This would provide assurance that this amendment is not decreasing standards.

Macroinvertebrate Community Index

18. The Forum supports the inclusion of the monitoring requirement for regional councils to use Macroinvertebrate Community Index (MCI). MCI is currently used by some councils already. However, some councils note caution is needed in using the MCI as a surrogate for measuring water quality. Specific MCI and sampling regimes will be required for different kinds of water bodies, ecosystems and contexts including land use and seasonal factors.
19. In the Next Steps for Freshwater 2016 we asked for local government participation on the work of potential inclusion of MCI attribute in the NPS and this recommendation is still relevant.

Maintain or improve overall water quality

20. The Forum is supportive of the requirement to maintain or improve water quality within a Freshwater Management Unit (FMU). This approach is compatible with the Canterbury Water Management Strategy (CWMS) zone structures.
21. Logically, water quality assessment should be undertaken at the smallest level possible (catchment or sub-catchment) to enable comparatively rapid identification of issues as they

arise, and consequential remedial action. This needs to be balanced with the practicality and costs involved for councils.

22. Councils also note that NPS-FM is silent on declining water quality changes in fresh water quality and that it is important that movements of water quality measures within an attribute band are tracked and managed. Some councils recommend that the NPS-FM is amended to include a provision to prevent significant long-term downward water quality trending within a band towards the next lower band.
23. The Forum support monitoring and reporting both on the overall water quality measures of a FMU within an attribute band and on any trends, positive or negative within the band.

Dissolved Inorganic Nitrogen /Dissolved Reactive Phosphorus

24. The Forum supports the inclusion of the management of dissolved inorganic nitrogen (DIN) and dissolved reactive phosphorus (DRP) when managing for periphyton concentrations. However, some are concerned that research should be carried out to understand the relationship between DIN, DRP and periphyton so that improved tools can be made available. This would reduce uncertainties and increase confidence that appropriate tools are available and used.

Coastal Lakes and Lagoons

25. The Forum notes the inclusion of coastal lakes and lagoons (ICOLLs) within the National Objective Framework for freshwater lakes following feedback received in the Next Steps for Freshwater consultation which a number of councils support.
26. There are complex and sensitive challenges associated with applying the same national bottom lines as freshwater lakes to ICOLLs. Comprehensive consultation with community and iwi has been undertaken to set current limits for Canterbury ICOLLs and agreement reached on how to achieve cultural, environmental and economic outcomes in the context of long term legacy issues of past land use. Further concerns are noted by Environment Canterbury that attributes of ICOLLs are similar but not identical to freshwater lakes. Some councils recommend that the Ministry work with regional councils in which these water bodies are located to develop the most appropriate limits for ICOLLs.
27. For ICOLLs where it will be difficult to meet national bottom lines, the NPS-FM allows communities to set water quality objectives below a national bottom line temporarily, provided the water body is listed in Appendix 4 of the NPS-FM. Environment Canterbury seeks an alternative approach to this that does not undermine the commitment made by community to date or create uncertainty.

Stock exclusion requirements

28. The Forum supports in principle proposed stock exclusion requirements, but notes the difficulty in commenting further until the regulation is drafted. We already have provisions on Livestock Exclusion from Water Bodies in place in Canterbury in the Land and Water Regional Plan.
29. The Local Government and Environment Select Committee report on the *Resource Legislation Amendment Bill* has made comment on this proposed regulation to exclude stock from water

bodies on page 18 of its report. The Committee's comments on a more effective deterrent, provisions for flexibility and a more stringent rule in a plan prevailing over the regulation, are supported by the Forum.

30. In development of any stock exclusion regulation we further recommend that:
- 'drains' needs to be clearly defined in the Regulation, and exclude a constructed channel for the purpose of conveying water
 - flexibility needs to be applied to any regulation draft to ensure provisions allow for flexibility to be applied at local scale
 - the regulation is simplified, to reduce or eliminate the multiple timeframes shown
 - stock exclusion from waterways should include setback distances for fencing.
31. From experience in Canterbury the Forum would suggest the Ministry explore the practicalities of applying proposed requirements. We recommend that a collaborative working group is established with local and regional government representatives working with the Ministry, Ministry for Primary Industries and agricultural sector representatives to develop national regulation for stock exclusion from water bodies and practical solutions that work on a local scale.
32. A particular concern raised by the Hurunui District Council is the cost-effectiveness of any open-ended requirement to fence for stock exclusion on hill and high country land. We cannot support an unqualified requirement, and ask the Ministry to consult further with us on this during the drafting of regulation.

Other

33. Some councils have noted the absence of groundwater related attributes in the NPS-FM and seek national guidance for management of groundwater quality and quantity. This has also been noted by Te Rūnanga o Ngāi Tahu and Canterbury District Health Board.
34. The Forum also acknowledges the need for consideration of the resourcing implications of extension of any monitoring requirements. If there is a significant impact on monitoring resources the Forum would expect that a statutory funding mechanism be put in place to enable regional and local councils to resource any additional resource monitoring.

Conclusion

35. The Forum welcomes the opportunity for further engagement with the Ministry for the Environment on concerns and proposed suggestions included within this submission.



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