

Submission on the Clean Water Consultation 2017



Contact:

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Kia ora,

This is a submission on the Clean Water Consultation 2017 on behalf of The Morgan Foundation. We thank you for the opportunity to submit.

The Morgan Foundation is a not-for-profit organisation that conducts independent public interest research, and invests in conservation and social investment projects. Our research spans a wide range of topics and ideas on how to improve social, environmental and economic outcomes for New Zealand. We have a strong interest in protecting and improving New Zealand's freshwater. Our contributions to this cause include establishing and running the New Zealand River Awards since 2013, and our 2014 report on the National Policy Statement on Freshwater based on consultation with an independent scientific panel.¹

INTRODUCTORY COMMENTS

Multiple recent reports confirm that New Zealand's freshwater is under considerable pressure and that change is needed as a matter of urgency to protect human and ecological health. We think the proposed reforms are an important step in the right direction, but there are significant shortcomings that must be addressed. We wish to broadly endorse the recommendations made in the Environmental Defence Society's submission and Ecologic's submission guide.² Our specific feedback follows, structured in line with the online submission form.

SWIMMING TARGETS

The swimming targets have attracted significant controversy since the Clean Water discussion document was released. We support the move to a time-based approach to setting 'swimmable'

¹ <http://morganfoundation.org.nz/my-river/>

² [http://www.ecologic.org.nz/image/cache/CLEAN_WATER_2017 - Ecologic s Guide for writing submissions.pdf](http://www.ecologic.org.nz/image/cache/CLEAN_WATER_2017_-_Ecologic_s_Guide_for_writing_submissions.pdf)

standards. This approach recognises that ‘swimmability’ is a dynamic rather than static quality, and should drive a sensible focus on reducing the frequency with which risk thresholds are exceeded.

However, we understand the concerns raised by many groups and individuals around the apparent shift in risk threshold under the proposed changes. There would appear to be two key questions in contention:

1. What is an acceptable risk threshold (i.e. probability of infection with gastro-intestinal disease) for water to be deemed safe for swimming?
2. What is an acceptable frequency (i.e. percentage of time) for this risk threshold to be exceeded?

The proposals adopt a ‘guideline value’ of 540 *E. coli* per 100 ml, which corresponds to a 5% probability of infection. Some have criticised this as too high and argued the threshold should be 260 *E. coli* per 100 ml, corresponding to a 1% probability of infection.

The proposals would establish three categories within the ‘swimmable definition’, where the guideline value can be exceeded up to 5% of the time (‘excellent’), up to 10% of the time (‘good’) and up to 20% of the time (‘fair’). The full attribute states table provided on the Ministry for the Environment’s website³ lists further conditions for each category, including a median of less than 130 *E. coli* per 100 ml. This table seems to say that the 260 *E. coli* per 100 ml could be exceeded up to 20%, up to 30%, and up to 34% of the time for the excellent, good, and fair categories respectively.⁴

The Minister for the Environment, Nick Smith, has said that the Government intends for the classifications to be “fair and reasonable for an average person”.⁵ We are not aware of any evidence used to assess or determine the proposed classifications. Clearly, some people disagree that these are fair and reasonable, and this submission process cannot provide an answer to what an “average person” thinks. Swimmable rivers and lakes is a matter of public interest, and it is important that standards accurately reflect public values and attitudes. We therefore suggest that the Government should commission research to provide evidence on what New Zealanders think about standards for swimming (in particular, the two key questions listed above). This research should be independent to avoid any undue influence.

Recommendation 1: Commission independent research on public attitudes to swimming standards, and use this evidence to inform classifications.

Regardless of the definitions and classifications used, we acknowledge and applaud the intention to improve the state of our rivers and lakes over time. Particularly important is that – rather than just setting a ‘bottom line’ standard – the proposed goals would require continued improvements and an increase in all three categories within the swimmable definition.

³ <http://www.mfe.govt.nz/fresh-water/freshwater-management-reforms/water-quality-swimming-categories-attribute-states-detail>

⁴ The table has different terminology for the 540 *E. coli* and 260 *E. coli* columns (“percentage of exceedances” vs “percentage of samples”) and we are unclear on the meaning of this.

⁵ <http://www.stuff.co.nz/national/politics/89769055/the-new-swimmable-fresh-water-target-nick-smith-defends-his-plan>

However, the more general point of public discord is that the targets are relatively unambitious and do not reflect the urgency of the situation facing our rivers and lakes. If the proposed classifications are kept, targets should be brought forward, with increased Government assistance through the Freshwater Improvement Fund. These should also apply to all waterbodies (or at least, there should be requirements for councils to include smaller streams used for swimming, and a universal bottom line, as Ecologic suggests). Finally, it is critical that when regional targets are set, these are legally enforceable.

Recommendation 2: If the proposed swimming classifications are kept, bring targets forward to 80% swimmable by 2025 and 90% by 2030, with increased Government assistance through the Freshwater Improvement Fund.

Recommendation 3: Extend classifications to all waterbodies.

Recommendation 4: Ensure targets are legally enforceable.

PROPOSED AMENDMENTS TO THE NPS

While public debate has overwhelmingly focused on the standards and targets for swimming, addressing ecological health is critical. The proposed amendments to the NPS fall well short on this. At minimum, the Government should implement the recommendations of the Land and Water Forum (LWF) for ecological health (particularly those related to Macroinvertebrate Community Index). We also support the other recommendations made in EDS's submission on nitrogen, phosphorous, sediment, copper and zinc.

Recommendation 5: Implement LWF recommendations for ecological health, and other related recommendations from EDS.

We have read the legal opinion by Sir Geoffrey Palmer and Elana Geddis on the proposed economic well-being amendments and we are concerned that these are unnecessary and will undermine environmental protection. We think these should be deleted.

Recommendation 6: Delete the proposed economic well-being amendments as outlined by Palmer & Geddis.

Finally, we are concerned about other loopholes raised in Ecologic's submission guide, including the lack of deadlines for councils to implement policies, and lack of guidelines on the size of Freshwater Management Units.

Recommendation 7: Address all loopholes raised by Ecologic.

STOCK EXCLUSION

We agree with Ecologic that the NPS should require riparian planting in addition to fencing. This will deliver far greater benefits for water quality, and it will be more cost-effective to implement at the same time rather than retrospectively (which may require moving the fence).

Recommendation 8: Require riparian planting in addition to fencing.