



3/5//2017

Clean Water Consultation
Ministry for the Environment
PO Box 10362
WELLINGTON 6143
New Zealand
Attention; Jo Burton

Dear Jo,

Clean Water Consultation 2017

The Hawke's Bay Regional Council has appreciated the extension of time for making its submission to the government's Clean Water consultation document. The submission was considered and adopted by their Regional Planning Committee meeting on the 3rd May.

Attached to this letter is the final submission of the Council. Please note however, that while it contains submission points in relation to the swimmability proposals, the Council has received further advice from the Ministry about the extension for this topic. The Council may further submit on this aspect once the anticipated reporting is complete.

Yours sincerely on behalf of the Hawke's Bay Regional Council and Regional Planning Committee,

Rex Graham
HBRC Chairman & Committee Co-Chair

Toro Waaka
Committee Co-Chair

Clean Water

Consultation Document February 2017

Hawke's Bay Regional Council Submission

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Key Reform Proposals - summary

1. The Clean Water consultation document addresses a number of topics and suggests a range of proposals relevant to Hawke's Bay Regional Council.
2. They include these five key components;
 - 2.1. A new target that 90% of New Zealand's rivers and lakes are swimmable by 2040.
 - 2.2. New maps and information on the current water quality for swimming.
 - 2.3. Changes to the National Policy Statement for Freshwater Management including:
 - 2.3.1. replacing the term 'wadeable' with 'swimmable';
 - 2.3.2. clarifying interpretation of "maintain or improve overall water quality";
 - 2.3.3. adding macroinvertebrate monitoring for ecological health;
 - 2.3.4. strengthening references to Te Mana o te Wai;
 - 2.3.5. clarifying the consideration of economic opportunities;
 - 2.3.6. clarifying inclusion of coastal lakes and lagoons;
 - 2.3.7. clarifying policy on exceptions; and
 - 2.3.8. strengthening the requirement for monitoring and improving quality.
 - 2.4. Criteria for allocation of the \$100 million Freshwater Improvement Fund.
 - 2.5. Details of new national stock exclusion regulations.
3. The proposals are generally positive, and the Council notes and supports that they reflect closer engagement between officials and regional council staff over the last couple of years.
4. There are a number of details within the proposals which are of particular interest to the Council and it welcomes the opportunity to make the following submissions.

General Comments

5. The Council supports the overall approach to improving the quality of our freshwater resources taken in the Clean Water document, particularly:
 - 5.1. the aspiration to make 90% of lakes and rivers swimmable by 2040;
 - 5.2. the strengthened recognition of Te Mana o Te Wai in the National Policy Statement for Freshwater Management (NPS-FM); and
 - 5.3. the recognition of the value of mātauranga Māori in monitoring requirements of the NPS-FM.

6. The Council acknowledges the partnership between iwi and the Crown, established by the Treaty of Waitangi and recognises the importance of ensuring the rights and responsibilities of both parties are reflected in the management of freshwater.
7. The Hawke's Bay Regional Planning Committee embodies this partnership for the Hawkes Bay Regional Council and this principle of partnership needs to be incorporated into all freshwater management decisions.

Swimmability Targets and the NPSFM

8. The Clean Water Package includes a non-statutory government target of 90% of New Zealand's rivers and lakes swimmable by 2040.
9. Government proposes that regional councils must work to improve water quality towards a newly defined 'swimmable' standard over time, and to monitor and report on progress. The policy applies to rivers that are fourth order or greater.
10. The Council supports the goal of making 90% of lakes and rivers swimmable by 2040. We believe this is another small step towards achieving our collective aspirations of freshwater. However, for iwi and the community 'swimmability' represents both an acceptable level of water quality for swimming/primary contact recreation, but also, more importantly, swimmability can represent an acceptable level of water quality more generally, for a range of values. Therefore swimmability standards should be applied to a wider range of waterbodies than currently proposed (large rivers and lakes) to reflect the community's aspiration for improved water quality in a range of water bodies.
11. The NPSFM does not directly guide decisions about acceptable swimming state and progress towards the specified target. The government's objective (90% rivers swimmable by 2040) is notably not included in the NPSFM and the NOF does not provide a bottom line.
12. The regional council sector, including this council, has been responding to concerns about swimmability and is currently working with MfE and MPI to formulate a collective sectoral response to meeting this national target.
13. This includes formation of a task force and it is intended that this group produce a national document that sets out how the sector will achieve 2030 and 2040 targets with regional 'chapters' in a coherent national picture. Also included is modelling effects of actions either planned in policy or likely to be introduced to reduce bacterial loads as well as assessment of financial implications. The process is expected to be somewhat iterative.
14. The Council notes significant concerns related to assessment and progress reporting as further described in paragraphs 24 - 32.
15. While the discussion document indicates that 'acceptable' is anything graded "fair" or better, it appears the main requirement is for the council to identify where improvements will be made so they are suitable for immersion more often and over what timeframe (Policy A5).
16. At the same time, new provisions in Policy CA2 (f) suggest that improving water for swimming is still part of a values based decision making process. It is suggested that the location of the clause relevant to this requirement for assessment and improving swimmability is better located in clause (d) as it is part of the decision making around desirable attribute states.
17. There is a fine line between government direction, and by extension, requirements of councils to meet the targets quickly and the need for robust and fair implementation of the Clean Water Package and NPSFM.
18. Achieving the targets as specified will have resourcing implications or costs to our community, both in terms of plan change processes as well as costs of the physical works required and possible assistance programmes. This will be particularly true in relation to changes that require public participation at the regional level or where issues of fairness are likely to arise, such as in relation to existing activities.
19. The changes to the NPS and the government objective do not clearly show how that tension between rapid compliance with the new swimmability targets and the new stock exclusion requirements and good public process is to be addressed by councils in their RMA Plan

Change and LGA processes. Some alignment between this initiative and the progressive implementation programme for giving effect to the NPS is required.

20. The work required to fully understand what improvements can be made to allow draft targets to be reported to the Minister by October is significant.
21. There are significant resourcing needs implicit in meeting the Minister's directive and the uncertainties in the technical aspects of modelling effectiveness and costs of mitigation measures.
22. The final date for reporting to the Minister on how targets are to be met is March 2018. We suggest that this date be delayed to later in the year to take into account the council's Long Term Plan and reporting process.

Submission 1

Delay the March 2018 date for reporting on the swimmability target and the new progressive implementation plan provision in the NPS until after the Long Term Plan process is completed.

Amend NPS Policy E1 (f) consequentially.

Submission 2

Amend NPSFM proposal so that Policy CA2 clause (f) iaaa is deleted and replaced instead into a separate section under existing clause (d) as follows;

d) for those attributes specified in Appendix 2,

(i) assigning an attribute state at or above the minimum acceptable state for that attribute, where a minimum acceptable state is specified;

(ii) how to improve the quality of fresh water in large rivers and lakes so the human health risk is reduced and they are suitable for immersion more often;

Submission 3

We recommend that the swimmability standard should also apply to a wider range of water bodies than currently proposed.

Swimmability Targets

23. The Council supports changing the assessment of whether a river is swimmable or not to one where a water body is swimmable some of the time throughout the year. It feels that it enables better understanding by the community about risk including that it doesn't mean a river is either swimmable or not, but that it means a river is swimmable more (or less) often than not.
24. However, a number of concerns have been identified with the monitoring and reporting regime for swimmability. Technical staff are particularly concerned about ;
25. Monitoring site selection: The Council operates both a state of the environment water quality monitoring network (SOE) as well as a recreational bathing water monitoring network (RWQ) over summer. Some, but not all of the network sites are the same. Both programmes have different uses for the information which is reflected in the sampling strategies.
26. Further, the swimmability maps published in the Clean Water Package used modelled inputs 'trained' with SOE data, however they did not use the recreational data collected by councils. It is important to understand what data will be used for reassessment of progress towards meeting the government's "swimmability" targets.
27. The Council suggests the following options are available;

Option	Costs	Benefits
1. Using the SOE network which relies on monthly reporting, not using the recreational bathing water quality network	Is not carried out when people actually swim. Cannot respond to repeat daily monitoring requirements if high risk events during the year Is specific to location and not for river reaches	Is based on all year, all flows monitoring which can reflect other water recreation activities and immersion values held by iwi. Enables reporting against overall swimmability. Is representative across a region.
2. Using the recreational bathing water survey (RWQ)	Does not allow monitoring for all year, all flows monitoring for a wider range of water contact activities. Does not enable reporting for progress towards overall swimmability	Carried out when people actually swim and allows public health risk management Can respond to repeat daily monitoring requirements if high risk events.
3. Combine data and reporting requirements of both the SOE and RWQ networks as proposed	Conflicting end uses for monitoring networks High resource demand in relation to repeat monitoring requirements Unclear targets and difficulty in reporting consistently. Is inconsistent with MfE bathing water quality guidelines.	
4. A network of sites selected by government (using existing SOE, RWQ and NIWA sites)	Potentially adds significant costs and monitoring burden. Creates a third monitoring network when an existing one will do what is required	Targeted modelling programme enables NPS objectives to be clearly reported on

Submission 4

The Council submission is that Option 1, using the SOE network is the most efficient and cost effective option.

It further submits that public information about how and why councils collect data and the NPS reporting and assessment requirements for swimmability are described carefully as there is potential for confusion about the roles of these data collection systems.

28. Appendix 5: We suggest that the proposed new Appendix 5 be deleted. As drafted this appendix puts untenable resource requirements on Regional Councils, including in relation to daily monitoring for sites exceeding a threshold. There are also several aspects of the monitoring requirements that do little or nothing in contributing towards;
- 28.1. better management of public health or
 - 28.2. better swimmability.
29. Monitoring methodology is being addressed through standardised monitoring requirements through NEMS. Other elements of the appendix are relevant to the purpose of the monitoring

network. That is, location and frequency decisions are driven by the purpose of the monitoring. This would be provided by option 4 above should this approach be preferred by government.

Submission 5

Delete appendix 5

30. Inconsistency: The NPSFM, LAWA and the MfE water quality guidelines have some major inconsistencies such as in relation to assessment of risk and use of 3 or 10 year median data. The new proposals provide an opportunity for aligning and updating these aspects.

Submission 6

Align the requirements and assessments incorporated into the NPSFM, LAWA and the MfE water quality guidelines including;

3.2 Assessment of risk

3.3 Use of a 3 or 10 year median

3.4 Measurement of bathing suitability along river length or by location

31. Exception regime: There is a concern about water body status and management for swimming in all circumstances including where bird populations (especially valued native species) are present (including some land locked or shallow lakes and wetlands) for which the water body is managed.

Submission 7

Provide for an exception regime for rivers and other waterbodies where swimming is not a primary value and to allow management for other values such as indigenous bird species.

32. Methodology: There is an apparent omission in the metrics of the proposed NOF attribute table (refer NPSFM Appendix 2) for *E. coli*. Importantly, in the MfE supporting information for the Clean Water package there are four tests involved in establishing the attribute states for rivers from A to E. All four tests have been used in determining the categories identified in the NOF attribute but only one is then used in the NOF attribute.

Te Mana o Te Wai

33. The Council supports the strengthened recognition of Te Mana o Te Wai as a framework for enabling iwi and the wider community to determine local and regional values and ensuring these inform the setting of freshwater objectives and limits.
34. Te Mana o Te Wai places the values and interests of iwi and the community at the centre of freshwater planning process. In our view the agreed values and aspirations will inform the subsequent freshwater objectives for that waterbody, including the limit setting regime in the regional plan.
35. While the RPC partnership model is well placed to support the consideration and recognition of Te Mana o Te Wai in the Hawkes Bay region, this will still require engagement with, and input from, iwi, hapū and the wider community. The specific proposals that will require the input of iwi and hapū include:
- 35.1. Considering and recognising Te Mana o Te Wai
 - 35.2. Defining Freshwater Management Units
 - 35.3. Setting objectives and limits via regional plans
 - 35.4. Monitoring, including strengthened use of mātauranga Māori
 - 35.5. The anticipated establishment and implementation of Mana Whakahono-a-rohe agreements being introduced through the RMA amendments.
36. We recommend central government establish funding and technical support to assist iwi/hapū. This would also align with, and support the implementation of, the recent amendments to the

RMA including the developing Mana Whakahono-a-rohe agreement provisions where applicable.

37. The Council and its tangata whenua representatives note that most iwi and hapū have limited resources to participate in RMA planning processes. We believe central government needs to do more to support iwi participation in the full range of RMA planning processes and to enable the effective implementation of the proposals set out in the Clean Water document. This support will be required at the very least during the transition phase of implementing the proposals.

Submission 8

Retain the NPS amendments in relation to Te Mana o Te Wai.

Submission 9

Provide technical and funding resources to support and assist iwi/hapū engagement in freshwater management.

Freshwater Management Units

38. The proposed NPS amendments include clarification about how water quality is to be managed (maintained or improved) within Freshwater Management Units.
39. The Council supports this proposal to manage freshwater quality within Freshwater Management Units rather than within a region. It considers this will reduce the risk that water quality could be averaged within a region resulting in some water bodies being improved while others were potentially degraded.
40. The Council also supports the requirement to maintain or improve water quality, however, we query the proposal to maintain water quality by setting freshwater objectives in the same attribute band as existing water quality.
41. The use of bands in the NOF enables a community to judge the relative performance of an attribute state in groupings that represent high, medium, low and unacceptable quality. It enables the NPSFM to be specific about where water quality is below an acceptable state.
42. However, a movement from the top of one band to the bottom of the same band can be a significant change in the state of the attribute and we are concerned that this does not reflect 'maintenance' of water quality.
43. Furthermore where no 'bands' are specified for an attribute in Appendix 2, the alternative of ensuring that none of the values identified are 'worse off' in itself creates conflicts in relation to management objectives that take into account the wide range of values (including the value that water has for primary production). It raises questions about what 'no worse off' actually means.
44. In order to be 'maintained' the community generally desires that there is no negative trend in any of the water quality parameters being monitored. Issues arise where existing water quality is still changing as a result of historic land use practices and also where 'quality' may change seasonally (from time to time) and from site to site (such as occurs with groundwater).
45. The Council submits that the new Policy CA2 clause (e)ii is in need of further refinement to more accurately express what 'maintain' means including in relation to 'overall' water quality.
46. The Council submits that this requirement could be more directive and clear. While the NOF bands are a useful assessment tool and enable national bottom lines to be established, 'maintaining' water quality should be according to the monitored state of the attribute and assessed against data that allows for temporal, spatial and seasonal variation and trends over an agreed timeframe (e.g. 5 year timeframes).

Submission 10

Amend Policy CA2(e) iia to read as follows (or similar);

In those cases where a freshwater objective seeks to maintain water quality in accordance with policy A2, by every regional council ensuring;

(a) that the state of any monitored water quality attribute relevant to that objective is maintained at a specified value that reflects its current state while taking into account;

(i) temporal, spatial and seasonal variations in the measured state;

(ii) amount of data available;

(iii) a suitable reporting statistic that enables trend analysis;

(iv) lag times.

Submission 11

Consistent with the principle of partnership outlined above, the delineation of Freshwater Management Units needs to occur in consultation with relevant tangata whenua.

Freshwater Management

47. The NPSFM amendments include requirements to state objectives for nutrient concentrations.
48. There is no question that nutrient loads are an important factor in managing for freshwater outcomes and nutrient concentrations are parameters which are readily measured and for which most councils have long term records.
49. However there is a concern about a growing emphasis in freshwater management on those aspects of freshwater systems that are amenable to measurement.
50. The relationship between the objective being pursued (limiting periphyton growth) and nitrogen or phosphorus is probabilistic, however, not directly causal. How much slime actually coats a river bed depends on a complex set of factors. Focussing on two of those for which numerical measures can be established may not only be a poor use of limited resource, but may invite misunderstanding of the challenge to be addressed.
51. The inclusion of new MCI monitoring is noted and this Council already carries out MCI monitoring across the region. The Council's senior science staff continue to be involved in nationwide practitioner initiatives through the Environmental Monitoring and Reporting project to enhance the utility and monitoring effectiveness of MCI and similar indicators of macroinvertebrates.
52. We query the inclusion of "measures of the health of indigenous flora and fauna". As proposed, it is unclear if this is reference to only aquatic flora and fauna – being a NPS for freshwater- or whether the intent extends to terrestrial flora and fauna too. We note this will have potentially significant financial impacts on Council's activities.
53. Methods for inclusion of Mataranga Maori should be subject to the needs and interest of the local iwi in councils' freshwater decision-making. Council also notes the added financial implications of this requirement.

Submission 12

There is a concern about the growing degree of national prescription in how councils manage for freshwater outcomes. The Council notes the particular focus on nutrient concentrations could lead to perverse outcomes and requests caution in respect of any changes in relation to this.

Submission 13

The requirement for monitoring MCI is supported.

Submission 14

Further clarity about what is meant by monitoring measures of health of indigenous flora and fauna is required, including restricting the requirement to species dependent on aquatic ecosystems.

Submission 15

The strengthened use of Mātauranga Māori is supported.

Shallow Lakes and ICOLLS

54. The Council considers that the targets for shallow lakes are quite ambitious for shallow North Island lakes. The bottom lines are currently not being met for several such lakes in our region. Some of the lakes are in areas without intensive agriculture and have values, (such as wetland functioning, bird habitat) that are not directly affected by the NPS attribute states.
55. Improvements could be made to these systems to meet bottom lines, however timeframes are likely to be long and remediation extremely costly. The Council acknowledges that decisions about remediation options and timeframes are made within the context of the values and objectives decision making, including the opportunity to set targets.
56. While decision making for any one particular water body is guided by matters that account for costs and timeframes, the NPS itself does not clearly allow for Councils and communities to prioritise their activities and resources across the region. The current state (in relation to the NPS attributes) of some shallow lakes may force the council to prioritise a lot of spend (monitoring, land management, mitigation, policy) on shallow lake systems without consideration of the priorities that exist for other water bodies.
57. The Council suggests that sampling stipulations for ICOLLS be removed (Note at bottom of on p 31) to allow flexibility in sampling. For example, Whakaki Lake may only be open for about 5-10 days per year, haphazardly. So monthly sampling will not capture '12 samples' of an 'open' state within a reasonable time frame.
58. The infrequent nature of ICOLL openings completely negates the idea of having an annual statistic for these systems in terms of both and open and closed state.
59. However, the original issues identified for ICOLLS in previous submissions remain unresolved. While lake attributes can be applied to ICOLLS, the differences in deep lake, shallow lake and coastal lake ecosystems and their vulnerability to change as a result of surrounding land use means the application of a single set of attribute bands to all three lake systems will potentially lead to greatly differing costs in meeting a single bottom line applicable to all of these lake ecosystems.
60. The Council previously submitted on this aspect of the NPS in answer to the previous Freshwater Discussion document;

"A definition for ICOLL is required.

The Council supports the development of attribute bands for ICOLLS, however, it seeks that further analysis on the appropriateness of using the same bottom lines for shallow and coastal lakes as are used for lakes generally."

Submission 16

Remove sampling stipulations for ICOLLS.

Submission 17

Clarity about the scope and meaning of ICOLL is still required

Submission 18

Review the NOF attribute applicability and appropriateness of using the same bottom lines for shallow and coastal lakes as are used for lakes generally.

Economic Well-being

61. The discussion paper notes stakeholder concerns that the NPSFM does not specifically oblige councils to consider implications for economic well-being before establishing limits. It proposes some additional text in relation to this in the NPSFM.
62. The decision making processes under the NPSFM have raised the focus of environmental bottom lines and management objectives in the limit setting exercises, but the NPSFM still clearly recognises extractive activities as national values for which water quality and quantity is to be managed. For example, national values of fresh water (in the existing 2014 NPSFM) include mahi mara/cultivation and au putea/economic or commercial development.
63. This is potentially an issue of perception rather than substance and requires some attention to detail. The NPSFM clearly requires assessment of the implications for resource users including implications for “actions, investments, on-going management changes and any social cultural and economic implications” (Policy CA2).
64. In addition, Section 32 still guides the preparation of regional plans. Section 32 requires an extensive examination of the costs and benefits of any proposal including cultural, social, environmental and economic effects that are anticipated from the implementation of the provisions, including the opportunities for:
 - 64.1. economic growth that are anticipated to be provided or reduced; and
 - 64.2. employment that are anticipated to be provided or reduced.
65. Additional references to economic wellbeing appear to be unnecessary.
66. Furthermore, the additional text proposed for objectives A2 and B1 create confusion and overlap. The purpose of the Act is repeated in an inconsistent and potentially conflicting way in these NPSFM amendments. Section 5 of the RMA already states that sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety. The plans developed as a result of the NPSFM requirements give effect to the purpose of the Act.
67. A second inconsistency and potential internal conflict is also created by the new text proposed for Objective A2. The definition for ‘outstanding freshwater bodies’ does not contain a limited list of values that might be considered outstanding. There remains ambiguity whether or not extractive/economic values and uses of water can be recognised and protected as ‘outstanding’ values.
68. The NPSFM remains unclear and uncertain on this matter. Research into how the NPSFM has evolved indicates that there was unlikely to have been an intention to allow for extractive values to be considered ‘outstanding’. However, this issue is not yet resolved and there remains considerable debate as to how the NPSFM should be interpreted.
69. It is possible that by allowing extractive values to be considered outstanding, there might be better and more rigorous attention to the economic and social well-being values of water use and results in the additional text becoming redundant.
70. It may also provide clarity and better direction about how to manage ‘outstanding values’ under Part 2 and reduce overlap and complexity in relation to the direction to ‘protect’ outstanding instream values management through WCOs.
71. This does not mean that extractive values will in any way trump ecological values or Te Mana o Te Wai as both the NPSFM and the RMA require sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and safeguarding the life-supporting capacity of air, water, soil, and ecosystems. The NPSFM also

specifically notes that aquatic ecosystem health is a compulsory value that must be provided for and maintaining and improving water quality is a basic requirement.

72. There is a concern that this approach may increase confusion and complexity where values are competing. However, decisions will always be required about the extent to which water quality is required to be improved, or the amount of water required to sustain instream values.
73. Allowing all values to be potentially considered outstanding does however, mean that different levels of protection for ecological values are able to be considered.

Submission 19

Delete additional references to economic well-being in proposed changes to RPS.

Submission 20

Clarify how significance of the national values in the NPS is to be considered, especially in relation to 'outstanding values' and the protections provided for outstanding values through a WCO.

Freshwater Improvement Fund

74. The Council fully supports the financial assistance being provided by the government to address some of the legacy issues around water quality.
75. The Council has made applications for this funding as it considers that government assistance to meet aspirations and government commitments for better water quality is essential. This funding helps acknowledge and provide redress for historic land development and land use policy decisions that are now being re-considered in light of more integrated management and attention to aquatic ecosystem effects.
76. The Council also suggests the funding criteria requires reconsideration. The current \$200,000 minimum funding request is likely to prevent some community groups and iwi/hapu from accessing the fund, and therefore potentially limiting its effectiveness.

Submission 21

Support financial assistance being provided to the Hawkes Bay for improving water quality that has in part been degraded as a result of historic land use policy decisions by the government.

Stock Exclusion

77. The government proposes new regulations to exclude most stock from waterways.
78. The council supported this concept in principle in its 2016 submission, but expressed misgivings about the lack of flexibility such a regulation could entail.
79. The regulation as proposed would allow progressive movement towards stock exclusion according to stock and farming system and land slope. Where exclusion does not provide sufficient benefit for the costs involved or where there are practical constraints, farmers can apply to the council for permission to prepare a stock exclusion plan.
80. The Council's experiences with the implementation of the Tukituki River plan provisions indicate a number of potential issues are likely to arise with this national regulation proposal.
81. This sort of regulation will have considerable resourcing requirements in respect of compliance. It establishes expectations for stock management in an absolute and non-discretionary framework that will have significant impacts on Council resources to enforce. It diverts resources away from better targeted regulation, extension and incentive programmes that seek to empower and support rural communities to meet water management objectives. The fall back requirement for Stock Exclusion Plans is also an added compliance burden for Councils.

82. The proposal is unclear as to whether the Stock Exclusion Plan provision is through a resource consent regime or as part of a permitted activity rule. A consent regime results in a cost and administration burden for both council and the landowner, while a permitted activity results in significant costs for a council (and general ratepayers).
83. While the Council's own Tukituki Plan Change seeks stock exclusion, it provides for farmer input into how and when the stock exclusion is to be provided through farm plans and focuses more stringent requirements and timeframes where water quality is especially at risk. This approach enables land owners and councils to work towards the objectives in a measured and programmed way that is focussed on improving poor existing water quality in some catchments as well as managing risks and threats across the catchment.
84. There is a large number of variables contained within the text describing the proposed regulation which add considerable complexity to interpretation and compliance and therefore are a risk to good implementation. These include terms such as break feeding (where feed lots and set or mob stocking are similar activities with similar risk of adverse effect), stock units, water ways and drains (the RMA contains definitions for river, with reference to farm drainage canal) and water body. Making farm scale decisions about fencing based on a national slope database such as LRI results in significant uncertainty and ambiguity. Paddock size is an important component and the council has found that it needs to be taken into account when deciding on the need for fencing.
85. In order to implement the Tukituki Plan provisions more effectively, the Council has been required to develop detailed slope maps based on LIDAR data to provide sufficient slope information at a property scale to enable decisions to be made by landowners. The Council has LIDAR slope information over only approximately 20% of the region.
86. The Council has also determined that a concept of predominant slope in relation to a paddock area through which a stream is flowing is also essential to assist interpretation and decision making.
87. Further, the use of slope in relation to waterway management is not always a good indication of sediment or other contamination sources or the main criterion when making decisions about the best mitigation measure.
88. In addition to this, the Council is currently engaged with the farming community in a collaborative plan change process as part of meeting objectives set for water quality within the TANK catchments. A national approach to regulation in this context undermines local solutions and innovative approaches to meeting freshwater objectives.
89. The final point of the Council's submission relates to the regulatory tool being adopted. The use of a regulation under Section 360 (rather than through an NES and amendments to the NPSFM) appears to have progressed through the Resource Legislation Amendment Bill process beyond contest, leaving little scope now for robust consideration of alternatives through these NPSFM amendment proposals.
90. We question why the new infringement regime elevates the significance of the effects of stock in waterways considerably beyond any other section 15 infringement with a maximum infringement fine of \$2000 as compared to \$1000 for any others and \$750 for any non-industrial discharge offences under section 15(1). We suggest that the deterrent effect of infringement fees be considered across all contaminant discharge and land use activities in a more consistent way.

Submission 22

The Council proposes an alternative approach to stock exclusion;

Councils to be required to adopt stock exclusion policies by 2025 consistent with the NPSFM timeframe for implementation and consistent with work underway to meet the government's swimmability targets,

Stock exclusion be required from wetlands, lakes, rivers subject to water conservation orders and their tributaries and coastal areas by national regulation (or national environmental standard) by 2020,

Retain the proposed stock exclusion plan provision, but provide more clarity about how this element is to be given effect to.

Enable infringement fees as appropriate to the effects of the stock and relative to other general infringements against section 15(1)

Allow Regional Councils (in consultation with the primary industries) to work out a local timetable for the remaining rivers based on the identified risks and river values as part of the NPSFM implementation programme.

Stock exclusion could also be required anywhere where stock are being break fed/set stocked or mob stocked to the extent that there is no vegetation cover, but this may prove difficult to define with sufficient clarity.

Technical and Policy Support

91. The Council wishes to support national initiatives for better water management that add value to and complement local decision making. To that end, it advocates that the government further develops the NPSFM amendments with the assistance of regional and unitary council technical and policy staff.

Submission 23

The Council submits that further development of the national initiatives for water management be done in close collaboration with regional council technical and policy staff.