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Northland Regional Council Submission on Proposed Wastewater Environmental Performance Standards

1. Introduction

Northland Regional Council (council) appreciates the opportunity to submit on the proposed wastewater environmental standards. Council supports the intent to improve efficiency and consistency in consenting wastewater network discharges and the performance of public wastewater networks generally. Council also acknowledges the challenges facing the country as outlined in the discussion document. We note however that consenting represents a minor component of the costs of establishing, upgrading, maintaining and operating wastewater network infrastructure and many of the issues affecting wastewater networks across the country are ultimately linked with the challenges associated with how these assets are funded, not with how they are regulated.

As drafted, we estimate that 9 of the 24 wastewater systems that discharge to water in Northland would fall within scope of new standards. We estimate that the remainder will not achieve the minimum dilution required by the standards; or they discharge into receiving environments excluded by the standards. The efficiencies anticipated by the standards is unlikely to be significant for Northland in the context of existing wastewater assets. For the reasons outlined further in this submission, council nevertheless has significant concerns with the proposed standards.

While council sees merit in applying minimum performance standards to discharges from public wastewater networks, we have concerns, over these being expressed as ‘environmental’ performance standards with limited ability to apply greater stringency to protect local values. Council supports the intent to provide a ‘smoother’ consenting pathway where standards are met but we believe it is essential consent authorities retain discretion to apply conditions of consent to manage local issues / sensitivities, which vary significantly across our region and Aotearoa New Zealand. The discussion document suggests variation in the management of wastewater across New Zealand and within regions is a significant problem – we expect there are valid reasons for this in most cases given the variation in the sensitivity of receiving environments, the level/type of treatment provided and consideration of local priorities and values.

We note that the consultation document is provided in the context of both the relevant provisions of the Water Services Act 2021 and the changes proposed through the Local Government (Water Services) Bill – which include changes to the Resource Management Act. Council has accordingly provided feedback in that same context.

2. Submission points

2.1 Alignment with national direction / RMA requirements

The regime established through the Local Government (Water Services) Bill and changes to the RMA effectively elevate wastewater standards above other national instruments such as National Policy Statements. This is likely to frustrate implementation of national direction, especially in relation to freshwater. For example, it is unclear how councils would deal with a situation where a wastewater discharge (either on its own or in conjunction with other contaminant sources) results in a national bottom line or limit being exceeded given there is no discretion to impose greater stringency. It would appear the standards prevail over a bottom-line leading to gross inconsistency across the freshwater regulatory framework.

The change to s107 RMA proposed through Clause 275 of the Local Government (Water Services) Bill would exempt wastewater discharges that meet standards from the requirement to address significant adverse effects on aquatic life – this seems to assume that the standards would avoid further degradation which may not be the case. We also note that the s107 tests would still apply to other contaminants not covered by the standards – this is likely to create complexity where contaminants not covered by standards (but may not be the primary cause of degradation) would be subject to conditions required by s107 while those covered by the standards wouldn't. As an alternative it is recommended that where s107(2A) applies, regional councils retain discretion to impose more stringent conditions – i.e. there would be an exception where s107(2A) applies and the standards would not apply in these cases.

2.2 Local Decision Making

Decisions on resource consents for wastewater network discharges are of significant interest to local communities and tāngata whenua. Consent processes should recognise Te Taitokerau's (Northland's) unique freshwater and marine environments, cultural values, sites of significance to tāngata whenua, and the local economic contexts. These vary widely across the region and need to be considered by a consent authority to ensure a robust and balanced decision that take into account economic drivers alongside social, environmental and cultural values specific to an area. Removing regional council's ability to tailor discharge limits where needed to reflect community values or protect sensitive sites will potentially drive decisions that significantly affect communities and the environment.

Council supports the intent to provide a 'smoother' consenting pathway where standards are met but considers there should always be discretion available to apply conditions of consent to manage local issues / sensitivities, which vary significantly across our region. We therefore strongly encourage the government and Taumata Arowai to ensure standards (and the regulatory regime) are applied as a minimum but not a maximum standard and that more stringency can be applied through consent conditions.

2.3 Te Tiriti o Waitangi

Council is committed to giving effect to its obligations as a Te Tiriti Partner. Part of this commitment includes partnering with iwi and hapū in regional governance processes, include regional plan development. The standards as proposed, in conjunction with the changes to the RMA through the Local Government (Water Services) Bill, undermines our commitment to partner with Iwi and Hapū in regional decision making because it seriously inhibits the ability for regional councils to regulate a matter that is of major interest to our partners.

Council has involved tāngata whenua throughout the implementation of the National Policy Statement for freshwater Management 2020 (NPS-FM) and in particular how to give effect to Te Mana o te Wai in Te Taitokerau – this has reinforced numerous iwi and hapū environmental management plans that seek to avoid or prohibit the discharge of contaminants into natural waterways (especially human waste) at all times. This is due to the tapu nature of the water being discharged, even after undergoing treatment, and the significant effects on cultural values such as the mana and mauri of the water, waahi tapu and other sites

of significance. We note that this was a key theme raised by iwi and hapū and reported in the wastewater standards consultation document.

The involvement of iwi and hapū during the consenting process is crucial to adequately consider the effects and sensitivities of the receiving environment, which can only be determined through the active participation of tāngata whenua. We note that from tāngata whenua perspectives, the RMA is already considered very limiting in terms of iwi and hapū involvement and the changes along with the standards means that in some instances they could be excluded from consenting processes altogether, despite this being a major issue for them.

2.4 Māhinga kai and drinking water

Council understands that the intent behind the standards is that discharges to water will meet limits deemed safe for recreational bathing in receiving environments. However, we have significant concerns that this standard may adversely affect the cultural value of māhinga kai and may not ensure the safety of tāngata whenua or the wider community for drinking water purposes. The cultural significance of māhinga kai is profound, and any degradation of these areas can have far-reaching impacts on the mana and mauri of the water, which are integral to Māori well-being and cultural practices.

2.5 The proposed standards

- i. Dilution factors: Categorising the sensitivity of receiving environments based on dilution alone is very coarse and will mean councils cannot consider community / tāngata whenua values or site-specific sensitivities to the discharge. The basis for calculating dilution factor is also problematic. In many cases there is unlikely to be accurate data on median flows and estimating. We recommend enabling more stringency in consent conditions by regional councils so impacts on site specific sensitivities / values can be managed.
- ii. Contaminants that are not included in the standard need to be consented separately and will likely mean the discharge will need to be ‘artificially’ separated into component parts for consenting – this is likely to add complexity. We encourage Taumata Arowai to investigate the practicality of this further – we have similar concerns relating to managing cumulative effects.
- iii. Council supports the option to apply QRMA where shellfish are regularly gathered – this will enable site specific risks to be managed. We recommend a similar risk management approach could also be applied to other values such as swimming sites, aquaculture activities or sites of cultural significance.
- iv. A number of the metrics for the standards use annual medians only (cBOD, suspended solids, nitrogen and phosphorus) - this could allow very high contaminant concentrations at times. We recommend that metrics are also applied to ensure ‘spikes’ in contaminant discharges are also managed (e.g. similar to 90% percentiles applied to *E.coli*).
- v. A higher standard for more pristine environments is logical but it is doubtful the proposed approach is meaningful – for example very few (if any) waterbodies in Northland are likely to meet the ‘A’ state for all NPS Freshwater attributes). It is recommended that the standards not apply to waterbodies identified in regional plans as: a) outstanding freshwater bodies, b) a site of significance to tāngata whenua, c) significant ecological areas. Doing so will enable a policy connection between the standards and those areas identified in our regional plan that require special consideration for environmental or cultural reasons.
- vi. The categorisation / definitions of ‘receiving environments’ needs to be very clear and certain (e.g. low, moderate and high dilution rivers, low energy coastal or estuarine receiving environments) – this is likely to be an issue for Northland as a number of treatment plants discharge to estuaries, tidal

rivers and harbours. We see some risk that this becomes a point of contention and uncertainty. We therefore recommend the standards include clear definitions for receiving environments subject to the standards.

- vii. Regarding the exception for discharges above / in proximity to drinking water takes in rivers and lakes – it is unclear which drinking water takes this would apply to - i.e. any registered drinking water take (e.g. single dwelling), or just those registered takes that serve a specified number of people? This needs to be clearly stated for certainty.
- viii. There appears no ability to apply adaptive management to wastewater discharges where standards are met – this is likely to be a concern where the scale and / or nature adverse effects are uncertain, which could be quite likely over a 35 year consent duration. We recommend that the standards (and the regulatory regime they sit within) enable adaptive management and complementary receiving environment monitoring regime where effects are uncertain.
- ix. Council supports a consistent monitoring regime for network discharges but note the standards do not require monitoring of the receiving environment – this could be a concern where total loads / concentrations are high. We recommend discretion for regional councils to require receiving environment monitoring through consent conditions. This should include both scientific and cultural monitoring to provide a holistic understanding of the impacts.

3. Relief sought

- i. Council's preference is for the Local Government (Water Services) Bill and associated changes to the RMA to revert to the current approach adopted in National Standards whereby councils can be more stringent but not more lenient – i.e. the standards should set the minimum required but allow regional councils to apply more stringent consent conditions.
- ii. Council recognises the above relief is beyond the ambit of Taumata Arowai - as an alternative, there should be additional exceptions in the standards that enable councils to impose greater stringency (through consent conditions) in the following circumstances:
 - To give effect to s107(2A) RMA, and
 - To meet a national bottom line / limit, or target state for a mandatory freshwater attribute;
 - Where the discharge is into an outstanding freshwater body, a site of significance to tāngata whenua, or a significant ecological area identified in a regional plan.
 - The water body is subject to Treaty settlement arrangements or joint management agreements with iwi.
 - Where the scale and nature of effects in receiving environments is uncertain over the duration of the consent and adaptive management should be applied.
- iii. Council recommends that the standards enable regional councils to require monitoring of receiving environments as a condition of consent – this would be particularly important where contact recreation, māhinga kai, cultural practices or commercial aquaculture are potentially affected (by the discharge by itself or in combination with other contaminant sources), or where effects are uncertain over the term of the consent.
- iv. Council recommends that the standards clearly define receiving environments, especially the estuary and low energy coastal categories.
- v. The standards should provide greater certainty on calculating dilution factors, especially in regard to estimating the impacts of rainfall on the network discharge volume over a 35 year consent term. We

also recommend detailed assessment of dilution levels in the receiving environment (for discharges to water) to ensure it meets safety standards taking into account other contaminant sources / total concentrations.

- vi. Council recommends the standards include maximum values for cBOD, suspended solids, nitrogen and phosphorus to ensure maximum concentrations are managed (do not just rely on annual medians).
- vii. Standards / regulations should not preclude public notification of applications for wastewater discharges even if standards are met.
- viii. Council supports a consistent approach to overflows and their management and reporting requirements.

4. Conclusion

Council thank Taumata Arowai for the opportunity to provide feedback on the proposed standards. We are not convinced the regime proposed will streamline the consenting process or materially reduce costs – in fact we see real risk that the approach will complicate consenting in some cases. We would be happy to provide more information on the above as needed.

Signed on behalf of Northland Regional Council

Chair Geoff Crawford



Dated 22 April 2025