

31 October 2019

Freshwater submissions  
Ministry for the Environment  
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**Wellington**

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**Submission on Action for healthy waterways: A discussion document on national direction for our essential freshwater**

Thank you for the opportunity to provide feedback on the Action for healthy waterways discussion document. How we manage our freshwater influences our economic, social and cultural wellbeing throughout New Zealand. This Council supports, in principle, provisions to ensure that our waterways are ones whereby New Zealanders can swim, fish, gather mahinga kai and enjoy these freshwater resources.

This final submission has been endorsed at a Council meeting. I would like to thank you for extending the timeframe for feedback so our new Council could be briefed on these matters prior to finalising this submission.

We appreciate that there will be many submissions made on the proposals put forward, and as such, have focussed on those issues of most importance to the West Coast and particularly our Council. Except where we have noted otherwise, we generally support the submissions made by:

- Local Government New Zealand
- Westland Milk Products
- Development West Coast
- The Buller, Grey and Westland District Councils

**Key points**

In considering our submission, our key points are as follows:

- The holistic consideration of all government policy (current, under consultation and to be released in the coming months) to avoid perverse outcomes.
- Ensuring there is an ability to apply regional variances to policy implementation.
- Provision to apply exemptions for areas (at a catchment level and a farm level) where there are no resource pressures, or where resource pressures have been effectively addressed.
- Wetlands on the West Coast are different to those of other regions and the provisions in this space need to reflect this difference.
- Stock exclusion should be regulated to a minimum setback of one metre, not five metres.
- Measuring new water quality parameters will have little to no impact on improving water quality, but will cost the ratepayer considerably.

Please contact me if you have any questions regarding the content of our submission or require additional information.

Yours sincerely

Michael Meehan  
**Chief Executive**

## Structure of this submission

This submission has 12 parts:

- The West Coast Context
- General comments on policy development
- Section 1 – Overview
- Section 4 – Setting and clarifying policy direction
- Section 5 – Raising the bar on ecosystem health
- Sections 6 & 7 – Drinking, stormwater and wastewater
- Section 8 – Improving farm practices
- Stock Exclusion Section 360 Regulations
- Section 9 – Support for improvement in catchments and on farms
- Section 10 – Impacts of proposals
- Section 11 – Aligning RMA
- West Coast wetlands
- Appendix 1 – West Coast wetland planning process
- Appendix 2 – Sphagnum moss harvesting
- Appendix 3 – Draft permitted activity rule for sphagnum moss harvesting within a Schedule 2 wetland

The first two sections are general comments on the region and the national direction overall. The numbered sections of our submission respond to the questions in the Discussion Document “Action for healthy waterways” that are the most relevant for our region, and the Draft Stock Exclusion Section 360 Regulations.

## The West Coast context

The West Coast natural environment is generally in good shape. While our land, water and ecosystems are healthy compared to other parts of the country, we recognise that there is still much to do.

The West Coast Regional Council is the smallest regional Council in New Zealand and manages the fifth largest area in the country. However, we are still required to deliver the same services and functions as the other regions. Resourcing is therefore one of our biggest challenges.

Traditionally, we have prioritised our resource management activities, including those regarding our freshwater, in the areas where the greatest resource pressures exist. We have found this to be very successful, as evidenced by our work with the landowners in the Lake Brunner Catchment.

The West Coast’s land cover is characterised by a predominance of forest cover (about two thirds of land area), of which most is indigenous forest. This is primarily an outcome of the nature of the land ownership of the region which is split 16% in private ownership and 84% under the administration of the Department of Conservation. The dichotomy in land ownership presents additional resourcing challenges for the Regional Council in not being able to rate this land, as well as limiting the productive capacity of the region. While there are some activities undertaken on land administered by the Department (grazing, mining, tourism) there is limited other opportunities for productive land development.

Agriculture, forestry and fishing continue as the biggest contributors to economic growth. Ensuring that these activities can be enabled whilst providing for positive environmental outcomes is at the forefront of all of the work undertaken by the Council. While agriculture is a key industry, agricultural activity is undertaken on only 5% of the regions land area.

Freshwater is a key resource of the region. The region is renowned for its natural and physical attributes, including its lakes and rivers. Our water resources provide a range of benefits that support agriculture, industry, tourism and the health and well-being of our people and communities. The majority (88%) of waterways on the West Coast drain catchments with indigenous land cover (for example native bush and tussock).

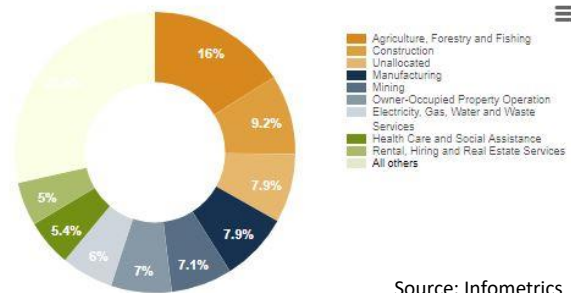
The West Coast is the wettest region in New Zealand with average yearly rainfall totals of between 1,746mm to 11,228mm<sup>1</sup>. Across the region, there is generally very little pressure on water resources with only small percentages of the mean annual low flow allocated. The main areas where higher amounts of water are allocated are the driest of the region: the top of the Northern Grey River, Inangahua and Waimangaroa catchments.

The context of the region, and the challenges and pressures facing the Regional Council, have shaped the comments provided in regards to the Freshwater proposals. What we have found repeatedly, is that the West Coast differs to other parts of New Zealand. Central government, while having the best of intentions, does not take into account that there are these regional variations across the country. ‘Cookie cutter’ policy may achieve little in one region where there are limited or no pressures on that particular resource resulting in significant time and resource being required to address it. We recognise that it is challenging to apply workable policy across large areas but believe that it can be achieved.

Some key facts about the West Coast and the Regional Council include:

- Smallest regional economy at \$1.6billion (2018 GDP value)
- West Coast land area: 2,327,600 ha
- 84% of the West Coast land area is within DoC estate (1,955,184ha)
- Estimated agricultural area: 107,074 ha or 5% of the region
- The majority (88%) of waterways in the West Coast region drain catchments with indigenous land cover
- Wettest region with average yearly rainfall totals of between 1,746mm to 11,228mm
- The West Coast Regional Council (WCRC) is the smallest Regional Council in New Zealand with the smallest rating base
- WCRC manages the fifth largest land area in the country
- Climate change is predicted to make the West Coast generally wetter
- In 2015, the West Coast was the only region that had a population loss
- In 2018, the West Coast was the only Region that had an economic loss, approximately 1.4%

### Proportion of GDP by ANZSIC 1-digit industries, 2018



Source: Infometrics

### Biggest contributors to economic growth, 2008-2018

Agriculture, Forestry and Fishing	\$32m
Construction	\$29m
Retail Trade	\$16m
Rental, Hiring and Real Estate Services	\$14m
Transport, Postal and Warehousing	\$13m
All other industries	(\$86)m
<b>Total increase in GDP</b>	<b>\$18m</b>

<sup>1</sup> West Coast State of Environment Report 2018 - <https://www.wcrc.govt.nz/environment/state-of-environment>

## General comments on policy development

Central Government is in the midst of the biggest legislative and policy reform we have seen for some time. We are concerned that potentially the freshwater proposals will not be well connected to the other national directives being considered, or how these impact a region overall.

There has also been a trend of poorly constructed, or non-existent, regulatory impact statements which have failed to capture the true impact that the proposed regulation will have on communities, businesses and local government. The drive towards decentralisation and a push for central government policy to be delivered by local government through 'unfunded mandates' is, in the case of the West Coast, impossible to deliver without significant rate increases. The increased cost to Council to implement the monitoring of the proposed new water quality parameters has been estimated at \$250,000 per year. This cost will be associated with our water quality monitoring programme. The increased cost to the consenting compliance programme relating to the proposed changes is estimated at \$230,000 per year which is not cost recoverable, and another \$240,000 per year which is mostly cost recoverable. This equates to an increase in non-recoverable costs to council, ratepayers of \$480,000 per year.

We seek that, as the freshwater proposals are refined, a truly robust regulatory impact assessment is developed that takes into effect the actual impact that the proposals will have nationally as well as regionally, recognising that some regions are substantially different in the way the proposals will affect them.

Government will be well aware that rural regions are already concerned about the potential impact of the various policy documents the Government is currently consulting on. Having relevant and robust regulatory impact assessments to quantify the social and economic cost would go some way towards alleviating this concern. In addition to this, being clear on what the proposal will achieve is paramount. Will the cost to achieve what is sought by Government justify the outcomes? This is particularly the case whereby extra monitoring of water quality will result in additional costs on Council monitoring programmes and landowners budgets but return little, if any, benefit due to already good water quality.

### **Example – National Environmental Standard on Plantation Forestry**

In the case of the Forestry National Environmental Standard (NES), which came into effect on 1 May 2018, it was developed over many years with the cost benefit analyses not 'stacking up' until central government shifted the major delivery costs onto local government. The NES delivers few gains for the West Coast region as its focus was addressing issues across the rest of the country, mainly in the North Island. The NES has simply created more bureaucracy in the West Coast region for forest owners with little environmental benefit.

We draw attention to the Rural Proofing Guide for policy development and service delivery planning<sup>2</sup> and question how this has been given effect to throughout the development of the proposals for healthy waterways. Is the effort required going to achieve the gains sought?

We are also concerned about the proposed Minerals Strategy (which will impact the review of the Crown Minerals Act and consultation on no new mines on conservation land), Biodiversity Strategy (which leads to the development of a National Policy Statement on Indigenous Biodiversity), historic landfill work and the Department of Conservation Stewardship Land discussion amongst other things, that are all up in the air at this time. Our District Councils are also concerned over the three waters discussion and work associated with this.

<sup>2</sup> Ministry for Primary Industries 2018 - <https://www.mpi.govt.nz/about-us/our-work/rural-proofing/>

For the West Coast, we are seeing first hand the disconnect between what our region needs in regards to economic development, which is being stymied by bureaucratic red tape and poorly thought out policy at a central government level to address issues in other regions. The ability for local government and their communities to make decisions in their best interests are non-existent under this Government.

## Section 1 – Overview

Question	Feedback
<p><i>Q5. What support or information could the Government provide to help you, your business, or your organisation to implement the proposals?</i></p>	<p>The cost of implementing the proposed amendments to the National Policy Statement Freshwater Management (NPSFM) could be significant.</p> <p>The West Coast has a small rating base and a small population. The costs associated with wider identification and monitoring requirements will be borne by the ratepayer. The West Coast Regional Council was one of several councils that had received an extension to implement the NPSFM to 2030. The removal of this extension compresses our Progressive Implementation Plan and as a result puts further pressure on our resources.</p> <p>Councils are accumulating an ever increasing load of responsibilities on behalf of central government. Additional revenue may need to be directed to assist small councils to carry out the mandates as required. One such revenue assistance approach should be compensation for councils that are unable to rate large areas of their regions/districts because the land is non-rateable, such as where the land is national park.</p> <p>Other support should include the following funding mechanisms:</p> <ul style="list-style-type: none"> <li>• A fund that gives farmers the option for their property (or parts of their property) to be bought out at market rate for areas of their farm that are no longer usable for agriculture due to wetland regulations.</li> <li>• A fund that is accessible to regional councils and/or farmers that pays for the initial cost of creating a farm plan.</li> <li>• A fund that is accessible to regional councils and/or farmers that pays for fencing and revegetation required by the proposed changes.</li> <li>• A freshwater research fund available to councils for scientific research in the freshwater space, particularly for the NPSFM. One area that needs a lot more research is understanding the links between numerical freshwater objectives and resource limits. The key question is, how much of a particular resource do we need to limit to attain a numerical freshwater objective? Another area that needs more research on the West Coast is groundwater. For example, the link between groundwater and surface water on the West Coast is poorly understood. Groundwater may be a much more sustainable source of water on the West Coast but there has been little research done in understanding the resource.</li> </ul>

	<p>The proposed package has tight timeframes, particularly around the stock exclusion regulations and the NPSFM related plan changes. Council’s financial planning occurs annually and triennially (Long Term Plan) and we require a long lead time to budget for future work. We are unsure when the “Action for healthy waterways” Package will become operative, and therefore budgeting will be delayed, possibly for a year. The result may be that there is a huge lack of resourcing, and meeting specific timeframes in the Package may be impossible.</p> <p>We are very concerned about the increased cost to the West Coast Regional Council (estimated at \$480,000 per year) that the proposed changes will bring. We recommend that a freshwater fund be created with the sole purpose of providing financial support to smaller councils for monitoring and compliance costs.</p> <p>We <b>strongly recommend</b> that Government address this matter with urgency in order for local government to undertake the policy implementation required.</p>
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## Section 4 – Setting and clarifying policy direction

Question	Feedback
<i>Te Mana o te Wai</i>	
<i>Q9. Do you support the Te Mana o te Wai hierarchy of obligations, that the first priority is the health of the water, the second priority is providing for essential human health needs such as drinking water, and third is other consumption and use?</i>	<p>We <b>support</b> this proposal.</p> <p>Through the work undertaken to date with the West Coast Freshwater Management Unit (FMU) Groups, drinking water has been identified as the highest value within the FMU’s.. Our iwi partner has shared the concept of Te Mana o te Wai as part of this process. We do not consider the concept of Te Mana o te Wai and safe drinking water to be mutually exclusive. If the health of the water is excellent then we believe that the water will also be suitable for drinking.</p>
<i>New Māori value</i>	
<i>Q13. Do you think either or both of these proposals (elevating the status of mahinga kai and strengthening the priority given to tangata whenua freshwater values) will be effective in improving the incorporation of Māori values in regional freshwater planning?</i>	<p>We <b>support</b> elevating the status of mahinga kai and strengthening the priority given to tangata whenua freshwater values.</p> <p>Water is a taonga. To give effect to our Treaty obligations, and our own iwi partnerships, appropriate elevation of the value of water to tangata whenua is required. This approach is consistent with our proposed Regional Policy Statement and current implementation process. Kai that is safe to harvest and eat is a strong indicator of the health of the water. Mahinga kai provision will also enable materials for other customary uses to be available.</p>
<i>Q14. Do you see any implementation issues</i>	It is not clear who would undertake the monitoring of this value. Presumably, the mana whenua of the rohe would provide this

Question	Feedback
<i>associated with either approach?</i>	information to the Council. The Rūnanga may require support in undertaking this monitoring.
<i>New planning process for freshwater</i>	
<i>Q17. Do you support the proposal for a faster freshwater planning process?</i>	<p>We <b>support</b> the proposal for a faster freshwater planning process in principle, particularly reducing the scope of appeals.</p> <p>The approach of specialist commissioners and restricted appeals may, or may not, reduce costs for councils and ratepayers and improve the speed of delivery and implementation.</p> <p>We <b>strongly support</b> limiting the appeal process. The appeal stage can add lengthy timeframes before a plan or plan change becomes operative. However, the parties who often lodge appeals are likely to put a greater emphasis on the hearing as potentially their last opportunity to advocate for changes to regional plans that support their interests. Hearings are likely to increase in scale and length of time, which will stretch the staff resources of smaller councils. Plan hearings are not cost recoverable as consent hearings are, so the additional costs are borne by ratepayers.</p> <p>We <b>support</b> the proposal for expert hearing commissioners and Environment Court Judges on hearing panels for freshwater plan changes. However, we question whether this is practicably achievable, as all regional councils will want to hold hearings around the same time in order to release their decisions by 2025 and there are a limited number of hearing commissioners available over the relatively short timeframe. We request MfE to provide councils with an assurance that there will be enough expertise available to achieve requirement should this proposal remain unchanged.</p> <p>We note that any planning process must allow sufficient time for Council to consult with their Papatipu Rūnanga. While the time that this would require will differ around the country, it is likely that it will place constraints on our two Rūnanga who have limited resources to participate.</p> <p>We look forward to the opportunity to comment on this proposal in further through the Select Committee process on the Resource Management Amendment Bill.</p>

## Section 5 – Raising the bar on ecosystem health

(Note that we have provided comment in a separate section in regards to the wetland proposals.)

While we generally support the principle of monitoring new parameters, we question, particularly on the West Coast if the increased cost to monitor (at least \$250,000 per annum) will have any real positive

impact on water quality. Many of the attributes that are proposed for compulsory monitoring are not a priority relative to the water quality issues that are the most problematic in the region, or deemed important by the community.

Question	Feedback
<i>Threatened indigenous species</i>	
<p>Q22. Do you support the new compulsory national value? Why/why not?</p>	<p>We <b>support</b> the new compulsory national value provided that the identification process, and protection, of threatened indigenous aquatic species is clear and will not impose additional cost on local government on behalf of the Crown.</p> <p>Clarity is required as to who would undertake the identification. The Department of Conservation manage a large estate on the West Coast. We propose that the Department would undertake the identification on that estate, with the regional council responsible for private land. There are significant potential costs associated with the identification regardless of who is responsible.</p>
<i>Fish passage</i>	
<p>Q23. Do you support the proposed fish passage requirements? Why/why not?</p>	<p>We <b>generally support</b> the proposed fish passage proposals.</p> <p>Fish passage is currently provided for in our Regional Land and Water Plan as conditions of permitted, controlled or restricted discretionary rules.</p> <p>Fish passage is also addressed in the proposed NES and while we consider that there are some drafting and enforceability issues that need addressing, such issues have been outlined in the submission from the Regional Sector.</p>
<i>New bottom line for nutrient pollution</i>	
<p>Q30. Do you support introducing new bottom lines for nitrogen and phosphorus? Why/why not?</p>	<p>We <b>support</b> the introduction of new bottom lines for nitrogen and phosphorus.</p> <p>Currently the NPSFM requires Council to set these measures. Comparisons of these new standards indicate few sites (1-2) that are below the bottom line in the West Coast. These sites are quite a bit lower than the rest so would likely not meet a standard created by the region. Having these prescribed reduces the investigative work required in determining where these should be set.</p>
<p>Q31. If this proposal was implemented, what would you have to do differently?</p>	<p>Having a bottom line standard prescribed means Council does not have to expend time and money on trying to determine what is appropriate.</p>
<i>Reducing sediment</i>	
<p>Q33. For deposited sediment, should there be a rule that if, after a period (say five years), the amount of sediment being deposited in an estuary is not</p>	<p>We <b>support</b> this approach.</p> <p>A tiered approach within a rule allows for an adaptive planning process to be implemented enabling a level of responsiveness to issues. This can be undertaken without high levels of cost.</p>



Question	Feedback
<i>significantly reducing, then the regional council must implement further measures each and every year? If so, what should the rule say?</i>	
Q34. <i>Do you have comments on the proposed suspended sediment attribute?</i>	<p>We <b>support</b> the proposed suspended sediment attribute.</p> <p>The attribute is nuanced in order to allow the consideration of different geologies. This is important. As drafted, it also provides for the various suspended sediment classes, allowing flexibility in applying the standards. The proposed attribute provides clear guidance.</p>
Q35. <i>If this proposal was implemented, what would you have to do differently?</i>	No significant change in direction would have to be undertaken; it would simply become one part of the implementation process.
<b>Higher standard for swimming</b>	
Q36. <i>Do you agree with the recommended approach to improving water quality at swimming sites using action plans that can be targeted at specific sources of faecal contamination?</i>	<p>We <b>support</b> the use of action plans to target specific sources of faecal contamination.</p> <p>This proposal is consistent within our existing water quality improvement work.</p> <p>Example 1: Marrs Shingle Beach Community Group A Working Group was formed in Westport to address the E.-coli contamination issues at two popular swimming beaches. Faecal tracking was undertaken and the source of the contamination identified. The Group, with expert input, are now looking at on-farm improvements to address these issues<sup>3</sup>. The final recommendations from the Group to council can be found on the Council website here:</p> <p><a href="https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Community/Community%20Groups/Marrs%20and%20Shingle%20Beach%20Working%20Group/Marrs%20and%20Shingle%20Beach%20Working%20Group%20report%20to%20RMG%20committee%20ver%206.docx">https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Community/Community%20Groups/Marrs%20and%20Shingle%20Beach%20Working%20Group/Marrs%20and%20Shingle%20Beach%20Working%20Group%20report%20to%20RMG%20committee%20ver%206.docx</a></p> <p>Example 2: Grey Mawhera Freshwater Management Unit Group Within the Grey Mawhera Freshwater Management Unit Group, one urban waterway, Sawyers Creek, has long been identified with E.coli issues. The Group has a District Council representative who has been able to share the Action Plan for that catchment with the Group and indicate a clear way forward to address the issues.</p>
<b>Minimum flows</b>	

<sup>3</sup> For more information on the Marrs Shingle Beach Community Group  
<https://www.wcrc.govt.nz/community/community-groups/marrs-and-shingle-beach-working-group>

Question	Feedback
<p>Q37. Is any further direction, information or support needed for regional council management of ecological flows and levels?</p>	<p>There is an extensive amount of further information required for Council to effectively manage ecological flows and levels. The setting of an ecological flow is considerably more complex than establishing mean annual low flows. Research is required to understand the ground and surface water bodies and their interconnectedness. In addition to this, information on the rates of flow is needed for a variety of ecological parameters. Undertaking this investigate work would impose additional costs.</p>
<p><i>Reporting water use</i></p>	
<p>Q38. Do you have any comment on proposed telemetry requirements?</p>	<p>While improving the quality of data for water takes is paramount in understanding regional allocation use and needs, gathering this information is more problematic. Our current permitted activity water take rules allow for a variety of flow rates for different types of activities. The proposed reporting requirement would only apply to one of these rules (Rule 41. Water take and use or diversion for small scale hydro electricity generation), whereby Council is to be notified in writing. Outside of the permitted activity rules we do not currently require a telemetry reading as a condition of resource consent.</p> <p>Potentially, this requirement should be targeted at freshwater bodies with evidence of resource pressures.</p> <p>We <b>support</b> the Advisory Groups' comments in providing exceptions to this requirement where technology/transmission does not enable telemetry. The costs associated with the reporting may be significant for smaller water takes, especially as cellphone coverage can be unreliable on the West Coast.</p>
<p><i>Draft National Policy Statement Freshwater Management</i></p>	
<p>Q40. Are the purpose, requirements and process of the NOF clearer now? Are some components still unclear?</p>	<p>The proposed National Objectives Framework, Part 3.10, "Identifying limits on resource use and preparing action plans" is <b>supported</b>. It is extremely difficult to determine how much of an activity needs to be curbed to reach a specific numeric objective. Attempting to undertake this work under the existing NPSFM is outside the means of the West Coast Regional Council. Other methods could be used alongside the limit identification and action planning, such as best practice strategies via voluntary or compulsory rules, adaptive implementation, or a tiered planning approach. Worked examples of the limits would also be very valuable in aiding implementation. With the work done so far with our FMU groups, facilitating understanding of "limit setting" has been a challenge.</p> <p>The cost associated with it is a concern. A reduced programme may be possible with our current resourcing, with low frequency monitoring. The reduced programme could be basic biodiversity assessment and physical and chemical sampling (nutrients etc.). Undertaking complicated ecological assessments is both expensive,</p>

Question	Feedback
	<p>and requires skills beyond our expertise, depending on what aspects of ecological health are assessed.</p> <p>Compulsory monitoring of fish passage was a matter the resource science team intended to commence in the near future. The new tools will assist this.</p> <p>The new standard of weekly sampling for contact recreation is statistically desirable but will put pressure on resourcing. This may mean that the number of sites that are monitored has to be reduced.</p> <p>The Standard in 3.18 Primary contact sites, 3(a) of 260 cfu/100 mL is not practical in a wet environment. It is simply not that high, and exceedances in wet conditions are likely to be diffuse source and very hard to manage. Exceedances in dry conditions are more likely to be point source and easier to tackle. It would be a better use of funding to undertake faecal source tracking rather than daily sampling. Daily sampling doesn't identify the source. Even with daily sampling we have to wait several days for results to come from the lab, so the public are not really that well informed in terms of current information.</p> <p>The footnote for the NOF for suspended fine sediment is unclear. The footnote says that it does not apply to naturally coloured brown water streams. The brown colour is normally dissolved organic carbon (DOC) and has no particles associated with it. So it does not increase turbidity. For example, our dark brown stained reference site in Okarito has limited visibility due to DOC but turbidity is normally near detection limits &lt; 1 FNU. In other words, DOC does not affect turbidity.</p> <p>Hypolimnetic oxygen: some lakes that have high DOC, derived from natural sources, can have low hypolimnetic dissolved oxygen (DO). It is possible that naturally high DOC contributes to oxygen depletion in these lakes. This has been observed in lakes with limited human activity upstream. Dark brown lakes have reduced potential for algal productivity due to high light attenuation. Therefore less phytoplankton should reduce hypolimnetic DO depletion rates, yet DO depletion can be much higher than anticipated in these lakes.</p>
<p><i>Q41. What are your thoughts on the proposed technical definitions and parameters of the proposed regulations? Please refer to the specific policy in your response.</i></p>	<p>The improved clarity of the provisions is <b>supported</b>.</p> <p>The identification of outstanding waterbodies (3.6.(3)d) requires further clarity. The broad value groups are provided in the definition, however there is no guidance as to their criteria. Hawkes Bay and Taranaki Regional Councils are currently undertaking plan change processes using different sets of criteria. To provide clarity and consistency, as well as reducing potential litigation, it would be</p>

Question	Feedback
	extremely beneficial to confirm appropriate criteria so our region does not have to replicate this work.
Q42. What are your thoughts on the timeframes incorporated in the proposed regulations? Please refer to the specific policy in your response.	See our response in relation to Question 17.

## Sections 6 and 7 – Drinking, stormwater and wastewater

The provision of safe drinking water and the infrastructure required to manage stormwater and wastewater are critical services for our communities. We **support** the submissions that have been made by the Buller, Grey and Westland District Councils on these matters.

We expect that there will be costs, plan changes and increased workload associated with any new proposals in these areas. However, there is limited information for us to provide feedback on at this time. We will provide further comment when the further consultation material is released in mid-2020.

## Section 8 – Improving farming practices

Note - Questions from the Discussion Document are not specifically addressed in this section. Instead, the West Coast Regional Council has provided comment on the proposed NES/Stock Exclusion regulations of most interest and concern to the region.

### General comments

The broad intent of the farming package is **supported**, particularly the use of Farm Environment Plans (FEPs) and clear requirements for stock exclusion. However, there must be provision for regional variance as well as clarity around exemptions to provide for unique situations. Some proposals are less relevant, or useful, in the West Coast context and allowing for these variances enables a pragmatic and practical way to incorporate local decision making within a national framework, provided the national outcome sought is achieved.

We have found significant issues with definitions and drafting throughout the proposals. These errors lead to a lack of clarity about the requirements and result in complicating compliance and enforcement activity. These issues are evident across the whole document, not just the farming section. We understand that there are several other submissions which will be outlining these issues and so have not commented on them here, except where it is particularly relevant to the West Coast.

Question	Feedback
Livestock control	
<i>Sacrifice paddocks</i>	The permitted activity status for sacrifice paddocks is <b>supported</b> , however, conditions would be difficult to adhere to on the West Coast, particularly condition 28(2)b): “...does not include any critical source area.” This difficulty arises from the broad definition of “critical source area” and the challenge to find a paddock that does not have one. Therefore, a perverse outcome of this requirement will be a continual requirement to obtain an annual

Question	Feedback
	consent as the location of a sacrifice paddock changes from year to year.
<i>Intensive winter grazing</i>	The permitted activity status for intensive winter grazing is <b>supported</b> , however condition 30(1)(d) regarding critical source areas makes it impractical and would lead to perverse consenting outcomes as identified above. In addition to this, there is the difficulty in measuring and enforcing conditions 30(1)(f) and (g).
<i>Other stock holding</i>	<p>The time periods identified in condition 29(1) are difficult and impractical to measure.</p> <p>However, we understand that there is no intent to require consent for stock holding areas that are only used for short periods of time. This is <b>supported</b>.</p> <p>Requiring consent for other stock holding areas could lead to multiple consenting requirements and we question both the practicality of this and whether it would achieve the outcome sought.</p>
<p><b>Alternative proposal</b></p> <p>We consider that the effects of sacrifice paddocks, intensive winter grazing and other stock holding practices could be addressed through the FEP which would allow for a farm by farm assessment of risks and associated controls rather than requiring individual, and/or potentially numerous, consents. Providing that the FEPs and audits are enforceable, these activities could be managed with a much greater degree of efficiency and effectiveness for farmers and councils.</p>	
<i>Intensification</i>	This section could lead to consenting requirements for land use change (for example, new dairy conversion, increasing the dairy platform or adding to the irrigated area). Given that nitrogen is not a big issue on the West Coast, we question the necessity of these regulations in the West Coast context.
<i>Freshwater module of farm plans</i>	<p>We <b>support</b> the requirement for compulsory Farm Environment Plans (FEP). We propose that this be taken a step further by making the FEP a regulatory tool that can be enforced against. As currently worded this is not clearly provided for in the proposals.</p> <p>As identified in other parts of our submission, some provisions that are currently proposed as rules would be more effective if they were included in a farm plan. Making the freshwater module farm plan (FW-FP) enforceable allows for risk assessments to be undertaken on a farm by farm basis. This approach results in the plan having a high value to the farmer due to its consequences, leading to a higher likelihood of implementation. Often these documents, because there is no recourse, are overlooked in the day-to-day running of the business. Redrafting the FW-FP provisions to tie the requirement to section 9 of the RMA for use of land, would provide for this.</p>

Question	Feedback
	<p>We <b>strongly support</b> the proposed management of rivers less than one metre wide, drains and critical source areas (which would include hollows in humped and hollowed areas) to be incorporated into the FEP as this allows for regional variation and the risk assessment to be applied. Again, ensuring regional councils have a strong role in farm planning (through having enforceable FEPs) will be paramount in driving real progress towards on-the-ground change. A provision requiring the regional council approval of the FW-FP would ensure that regional/catchment specific issues are addressed appropriately through the plan, removing the reliance on a farm planner paid by a farmer to arbitrarily determine what actions need to be taken.</p> <p>We recommend that the ability for exemptions from farm planning requirements to be granted, be considered. The purpose would be to provide for regional variation, giving regional councils the discretion to exempt low intensity farming operations (such as large scale, low intensity beef runs in South Westland) from the farm planning requirements.</p>
<i>Timeframes</i>	<p>We <b>recommend</b> that a review of the timeframes for requiring farm plans should be considered.</p> <p>For dairy farms and commercial beef/deer farms, 2025 appears reasonable.</p> <p>A longer period should be considered for small farms/non-commercial farms (lifestyle blocks), as many land owners of small blocks will not consider themselves farmers and will have little idea that these proposals will apply to them. Following the implementation of the dairy/commercial beef/deer farm plans, a review should be undertaken to determine whether there is significant benefit to require further farm planning for smaller blocks and non-commercial land as there may be little to be gained in comparison to the cost and enforcement of smaller/less intensive blocks being regulated in the same way.</p>
<i>Nitrogen cap</i>	<p>While this is not relevant to the West Coast as there are no catchments identified, we <b>support</b> the catchment-based approach as opposed to a blanket approach so that those areas not significantly affected can manage the issues in a regionally relevant manner through the NPS-FM &amp; FMU processes.</p> <p>We <b>recommend</b> that this approach be applied more widely through the provisions to ensure pragmatic and efficient management of resource issues.</p>

**Stock Exclusion Section 360 Regulations**

The stock exclusion regulations, as proposed, are of particular interest to the West Coast Regional Council.

Generally, we **support** the intent of the stock exclusion proposals. However, there needs to be provision for regional variation as well as consideration of whether the setback distances proposed are actually required. We have provided specific commentary on a number of topics below for consideration.

As worded, it is unclear whether compliance monitoring against the stock exclusion regulations can be cost recovered. It also appears that the regulations as drafted apply to all properties, not only those over 20 ha. We **seek** further clarity from MfE around these issues.

As identified previously, there are a number of drafting issues, lack of clarity in provisions, and contradictory conditions through both the National Environmental Standard and the stock exclusion Regulations. This leads to an inability to be able to enforce the provisions. We understand that there are several other submissions which will be outlining these issues and so have not commented on them here, except where it is particularly relevant to the West Coast. Redrafting will rectify many of the issues identified.

The Council has reviewed the Stock exclusion 360 Regulation and have considered the potential impacts the Regulations could have on the West Coast.

- There are 1,203 km of waterways at least 1 metre wide\*<sup>1</sup> on agricultural land at or under 5 degrees\*<sup>2</sup>.
- Worst case scenario: this is 1,203 km of waterways\*<sup>1</sup> requiring fencing or re-fencing on both sides, therefore 2406 km of fencing.
- There is an estimated 107,074 ha of agricultural land on the West Coast\*<sup>2</sup>. At 5 metres either side, a further 995 ha\*<sup>3</sup> or 1% of agricultural land (equal or under 5 degrees slope) will be removed from production.
- Costs associated with fencing are estimated to be \$16-\$33 million. \*<sup>4</sup>
- Implementation is likely to be spread evenly out to 2035, this represents \$1.2 million per annum, excluding maintenance costs.

Disclaimers for the above estimations:

\*<sup>1</sup>Used River Environment Classification New Zealand (2010) dataset – NIWA.

\*<sup>2</sup>Used ANZLIC MfE Low slope extent 2019 dataset - producing areas for West Coast.

\*<sup>3</sup>Due to insufficient information it has been assumed that all waterways over 1m wide (on agricultural land equal or under 5 degrees slope) on the West Coast are already fenced with a mean 1m setback.

\*<sup>4</sup>Fencing cost estimates are based on fencing needs relative to ratios of stock numbers and stock type. The low cost end is based on sole use of the cheapest fencing options, with the high end utilising the costliest fencing, based on estimates from MPI. If we assume a mean cost of \$24 million, spread evenly out to 2035, this represents \$1.2 million per annum, excluding maintenance costs. This example assumes hypothetically that all these streams require fencing or re-fencing, which may not be the case.

Topic	Feedback
Wetlands	Note that this submission has a separate section addressing our concerns around the proposals affecting wetlands. A summary of our key points are included below for quick reference.

Topic	Feedback
	<p>We <b>do not support</b> the proposal for stock to be excluded from all wetlands. This is impractical for the West Coast and extremely problematic.</p> <p>Unless it can be demonstrated differently, the West Coast should be provided the ability to adopt a regional variance to allow for the current regional wetland planning provisions to apply.</p> <p>To provide greater certainty to landowners, and enforceability for Council, <b>we recommend</b> basing the exclusions on the application of significance criteria to achieve the outcomes being sought.</p>
<i>Setback distance</i>	<p>We question the science behind the blanket 5 metre average setback as the current explanatory information provided in the Regulatory Impact Statement is unclear.</p> <p>We have undertaken significant investigation and work with landowners in the Lake Brunner catchment as we worked together to improve the water quality of the Lake. Part of this work included investigation into what an appropriate setback distance would be. This work demonstrated that a smaller setback has the ability to provide as much benefit as the larger distance of 5 metre being proposed.</p> <p>We would <b>support</b> a 1 metre setback requirement as this will provide the most gains. Having a 1 metre setback will stop stock from entering the water, damaging the banks, and pugging up the edge of the waterway. The 1 metre will also allow riparian vegetation such as grass to grow, which will help reduce runoff from entering the waterway, without taking a large proportion of grazing land from the landowner. While a 5 metre setback will have the same benefits as a 1 metre setback, we question how much additional benefit a 5 metre setback will have compared to a 1m setback. Setting the distance at 1 metre would still require some farmers to move fences. We consider that there are reasonable timeframes in place to allow this to be undertaken.</p> <p>We <b>support</b> having a minimum buffer of 5 metres from the edge of waterways when winter crops are being grazed. The 5 metre setback for cropping areas (opposed to one metre for general stock exclusion) is supported as cropping areas are generally more heavily grazed and have a greater potential for sediment runoff than general paddock grazing.</p>
<i>Slope criteria</i>	<p>The current proposed maps are inadequate. They have missed a number of areas that are known to be of “physically low slope”. Much of the area that has been missed appears to be land administered by the Department of Conservation, or LINZ land (over which there is a significant amount of grazing undertaken in the region), but there are also a number of other unexplained omissions.</p>



Topic	Feedback
	<p>We <b>seek</b> that a more robust approach to defining low slope land is undertaken for this proposal to be included in any regulation.</p>
<p><i>Carrying capacity for non-low slope land</i></p>	<p>Currently, determining the carrying capacity for non-low slope land uses a highly complex method. To be effective, this process needs to be simple and understandable.</p> <p>We <b>seek</b> that this methodology is reviewed in order to be effective.</p>
<p><i>Exemptions</i></p>	<p>We <b>strongly recommend</b> that the ability to apply exemptions is provided for the West Coast. This is paramount for the region.</p> <p>The Regional Council <b>must</b> be the authority to determine the application of exemptions, and provisions must be included in the final policy framework for these to be granted both on a farm, or larger, scale as required. For example, on the West Coast there are many large river run blocks of hundreds of hectares making up a component of traditional beef farming. These occur largely on DOC administered land in areas such as the Landsborough, Mahitahi and Arawhata Rivers. They are very unique due to low stocking rates and huge expanses of land. These cattle operations would be highly impractical to fence due to the braided and untamed nature of the regions rivers and rainfall. There would be negligible benefit to exercise exclusion in these areas. Requiring fencing would exclude huge expanses of land from the economic contribution to farming operations. These river valleys have developed over the last 100 to 150 years with stock grazing at the current levels (e.g. it has not intensified). Any sudden removal of stock from the Valleys would cause serious ecological effects with weed infestation likely.</p> <p>Blanket exemptions at the catchment level would be preferable for some areas of the West Coast, for example, the Otira River Valley, and from Franz Josef south except for dairy farms. It may also be appropriate to apply these in catchments where work has already been undertaken with the community to address water quality issues successfully (Lake Brunner catchment). Exemption criteria could include things like stocking rate/carrying capacity, vegetation cover, river type, rainfall etc.</p> <p>Farm specific exemptions could cover aspects such as low stocking rate or difficulty with fencing a particular river. Management options such as a temporary fence while cattle are in a paddock could be managed through a Farm Environment Plan.</p>
<p><i>Stock crossings</i></p>	<p>We <b>generally support</b> the bridging and culverting of stock crossings.</p> <p>As drafted, the Regulations provide for two crossings a month where they are not bridged or culverted. Policy in our Regional Land and Water Plan provides for 10 or 20 stock crossings a month</p>

Topic	Feedback
	<p>dependent on herd size. Meeting the stock crossing requirements may be particularly difficult for beef cattle and deer farmers where there are a large number of unbridged waterbodies.</p> <p>This Regulation also refers to waterbodies, a term that is currently undefined. It is not linked to rivers &gt;1m. <b>We recommend</b> that this be redrafted for clarity.</p> <p>The Regulation does not specify any timeframes in relation to this proposal. <b>We recommend</b> that stock crossing provisions should be, at a minimum, matched to the stock exclusion timeframes (or longer).</p> <p>Again, there is a case for the application of exemptions for stock crossings. <b>We recommend</b> the provision of exemption criteria as discussed above. This is a reasonable expectation and will assist in managing this activity on the West Coast.</p>
<i>Enforceability</i>	<p>There is currently no mandate for enforceability in the 360 Regulations. <b>We recommend</b> that this be rectified, otherwise they are meaningless.</p> <p>An alternative would be to include the provisions through the NES rather than having a separate set of Regulations. However, this complicates the provision of applying the exemptions under the NES for catchment/area scale. Farm scale exemptions would then be by way of a resource consent. Wider exemptions would need to be written into the NES as a point of regional difference.</p> <p>In considering both of these options, <b>we support</b> the enforceability to come under the 360 regulations.</p>

## Section 9 – Support for improvement in catchments and on farms

We are extremely concerned at the timeframes proposed for both West Coast farmers to undertake on-farm changes, and the Regional Council to deliver on the Package.

From a regulatory perspective (notwithstanding enforceability issues with the current drafting), the NES/Stock Exclusion Regulations will increase both the consenting and compliance workload. There will also be corresponding additional administrative costs. For example, setting up a register of farms will be required and challenging in terms of locating all relevant farms under the proposals.

There will be additional consenting, and potential exemption processing, required as well as compliance monitoring. It is challenging to quantify what this might look like until the final rules and regulations are set, and drafting issues rectified. However, the timeframe from when these are enacted (March/April 2020 potentially) to when the proposals will be implemented (June/July) allows for little forward planning.

While we exercise a cost recovery approach to our consenting and compliance activity, this does not cover the required training of staff and development of systems. It is difficult to recruit experienced staff to the West Coast. This will be further compounded in competing with the rest of the regional sector who

will be attempting to recruit at the same time, alongside consultancies and farm environment planners. It is highly likely that the regional sector will also lose staff to the private sector on the back of these changes.

We **strongly recommend** that the timeframes are discussed further with the regional sector to ensure that a practical pathway forward can be developed for smooth implementation of the final freshwater package.

## Section 10 – Impacts of proposals

The impacts of these proposals have been addressed in relation to specific aspects of this submission.

The discussions held regionally have indicated that the costs of the proposals are unclear, both by the Ministry, who think that it will cost a whole lot less than it is, and the farming sector, who believe it is going to cost a whole lot more than potentially it may.

Again, we **reiterate** the need for a robust Regulatory Impact Statement to be undertaken to fully quantify the economic and social costs of the draft proposals. With a key focus of this Government on ‘wellbeing’, the wellbeing of our rural and provincial communities needs to be at the forefront of any proposals which may negatively impact them.

## Section 11 – Aligning RMA national direction

As discussed in the general comments of our submission, local government is facing a tidal wave of reform and legislative change along with the development of new, and alterations to other, national direction tools. We are concerned that this legislation drive is not being considered in a holistic manner as the impacts of the different parts of the system under review have a flow on effect elsewhere. Policy and legislative change in isolation could lead to unintended consequences in that pulling one lever may undermine what is being sought in another area.

It is critically important to align these proposals with the other strategy and policy coming out of government, including, for example, the Biodiversity Strategy, Minerals and Petroleum Strategy, National Policy Statement on Indigenous Biodiversity, RMA reform, no new mines on conservation land, National Policy Statement for Highly Productive Land and National Policy Statement for Urban Development.

We **strongly recommend** that a Regulatory Impact Statement cover the interconnectedness of these policy frameworks to identify any perverse outcomes that may be effected.

## West Coast Wetlands

The management of wetlands is a **key issue** of the proposed Package for the West Coast.

Our primary concerns with the proposals as drafted have been summarised in the table below.

A summary of the process the West Coast Regional Council has been through in regards to wetland management over the past 15 years is included as Appendix 1 to this submission.

### The West Coast wetland context

Due to a climate of high rainfall, soil types, land use patterns and significantly large areas of undeveloped land under the administration of the Department of Conservation, the West Coast is in an enviable position of retaining a much greater proportion of wetlands than any other region.

Private land on the West Coast equates to 16% of the total land area.

In its current planning framework, the West Coast has:

<b>23</b> Schedule 1 wetlands	<b>206</b> Schedule 2 wetlands	<b>229</b> Total Scheduled wetlands
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In regards to land area this comprises:

	Land area	Schedule 1 & 2 wetland area	Privately owned land area	No. of private landowners
<b>Buller</b>	794,794 ha	4,542 ha	1,027 ha	161
<b>Grey</b>	351,530 ha	2,886 ha	1,618 ha	34
<b>Westland</b>	1,189,489 ha	50,404 ha	1,042 ha	97
<b>West Coast</b>	<b>2,335,993 ha</b>	<b>57,832 ha</b>	<b>3,687 ha</b>	<b>229</b>

The Council has been through a process of identifying and mapping significant wetlands, and wetlands likely to be significant, and protecting them through objectives, policies and rules in our Regional Land and Water Plan. This was a hugely expensive and lengthy process with a considerable amount of it directed through the Environment Court. It would be particularly onerous if the Council had to revisit this again to achieve, what we believe, would be very little as we now have a robust and tested wetland planning framework.

Through the Environment Court process, there was a paucity of consultation with landowners who had a significant wetland on their land. While wetland protection is a matter of national importance, there has been no compensation to landowners for the loss of the use of their land as the rules determined by the Court are quite restrictive on what activity can be undertaken in a significant wetland. Some West Coast wetlands cover up to 90% of a private property.

Question	Feedback
<i>Q25. Do you support the proposal to protect remaining wetlands? Why / why not?</i>	<p>We <b>strongly oppose</b> the proposed requirements in clauses 3.15(2)-(9) of the NPSFM that seek to protect wetlands, and how this would apply in practice on the West Coast.</p> <p>We understand why wetlands need to be recognised and protected nationally, and stress the importance that there are some significant differences to the status quo for this region.</p>
<i>Section 3.15(2) of NPSFM</i>	<p>The requirement to add the following statement to RPS's: <i>"The loss or degradation of all or any part of a significant natural inland wetland is avoided."</i></p> <p>While this may be appropriate and necessary for other regions with a higher level of development and more severely reduced extent of wetlands, it is potentially economically and socially unsustainable for the West Coast, and contrary to section 5 of the RMA.</p>
<i>Section 3.15(5) of NPSFM</i>	We <b>strongly oppose</b> this section for the following reasons:

Question	Feedback
	<p>As set out in Appendix 1, the Council has gone through an extensive process over the past 14 years to map wetland areas that are either significant or likely to be significant. This included adding provisions into our Regional Land and Water Plan to manage any effects on these areas. We are near the end of the process to finalise the boundaries of some wetland areas. This section of the proposed NPSFM changes effectively requires the Council to go back and identify any areas that have wetland values down to 500 square metres.</p> <p>The West Coast’s high rainfall contributes to wetland vegetation being extensive throughout the region. We consider that 500 square metres is a small area, and could include the backyards of private landowners if wetland vegetation is present. This could lead to a considerable number of additional wetlands being added to our Regional Land and Water Plan, which may not necessarily be in good condition, fully functioning or have significant ecological values, creating difficulties with justifying their protection. From previous experience the process of identifying and mapping these areas will be time-consuming, resource intensive, and expensive, beyond the ability of our small Council.</p> <p>We are concerned that the number of additional wetlands that could be required to be identified, along with provisions limiting the activities that can occur within them, could potentially result in a loss of income for landowners who can no longer undertake a productive activity on their land, or a decrease in the value of their property.</p> <p>Our preference is for the NPSFM to be amended to acknowledge that some council’s, including the West Coast, have already gone through the process of identifying wetlands, and so are not required to repeat the process.</p>
Section 3.15(9) of NPSFM	<p>We <b>strongly oppose</b> this section.</p> <p>The Council currently has over 200 scheduled wetlands, making monitoring of these areas time-consuming, resource intensive, and expensive beyond the ability of our Council. Many of these areas are on public conservation land managed by the Department of Conservation, and are unlikely to be impacted by development pressures. Even monitoring all of the scheduled wetlands on private land is potentially beyond the ability of our Council to undertake.</p>
Q26. <i>If this proposal was implemented, what would you have to do differently?</i>	See comments above.
<b>Feedback on the proposed NPSFM wetland provisions</b>	

Question	Feedback
<i>Inequity of policy approach</i>	<p>Implementing these new wetland requirements will potentially cost more for the West Coast to establish an inventory of all natural wetlands in the Region, map them, monitor, and update the inventory and maps, due to the high number of wetlands in the Region. These provisions exacerbate an uneven playing field.</p> <p>The new requirements will potentially result in a loss of income for landowners who can no longer undertake a productive activity on their land.</p> <p>The costs, and opportunity costs, of identifying and protecting wetlands on private land will be borne by landowners. This is unfair; since wetland protection is a matter of national importance, the nation should pay, through central government funding to purchase these wetlands.</p>
<i>Note at the end of the wetland provisions “The National Policy Statement on Indigenous Biodiversity 2020 contains additional relevant policies concerning the restoration and enhancement of wetlands.”</i>	<p>We <b>strongly oppose</b> having provisions in both the NPSFM and the NPSIB to protect wetlands. This is ‘over the top’ over-regulation, and we have raised in this submission the issue of a lack of connectedness between different national policy documents.</p> <p>Requirements for wetlands should be either in the NPSFM or the NPSIB but not both. It is confusing and uncertain about which provisions apply.</p>
<b>Proposed NES and stock exclusion regulations for wetlands</b>	
<i>Blanket provisions</i>	<p>We <b>strongly oppose</b> the application of blanket provisions for wetlands on the West Coast. This is both unnecessary and unreasonable.</p> <p>The proposed NES and Stock Exclusion Regulations apply to all wetlands regardless of their size, significance or importance etc. Council has 229 scheduled wetlands identified and mapped. It is unclear how many more ‘wetlands’ (as per the definition put forward in the proposal), exist on the West Coast. It is highly likely that there would be many. The purpose of the original wetland identification and mapping process was to provide clarity and certainty to landowners.</p> <p>The West Coast is a region that is significantly different from the rest of the country in terms of its land cover, climate and remaining wetlands.</p> <p>We <b>strongly recommend</b> that some exemptions or criteria are provided in the Freshwater Package to recognise that there is already a considerable level of protection of wetlands in regions like the West Coast. Applying the proposed requirements in the Freshwater Package for the protection of wetlands may have perverse economic and social impacts for West Coast communities which must be avoided.</p>

Question	Feedback
	<p>We <b>strongly recommend</b> that the Government consider alternative options to ensure that the West Coast continues to be economically, socially, culturally and environmentally sustainable for future generations.</p>
<p><i>Stock exclusion from wetland boundaries</i></p>	<p>We <b>strongly oppose</b> the current proposals requiring stock to be excluded from all wetlands, as well as establishing a 5 metre setback from the wetland area.</p> <p>Our current rules allow for grazing within Schedule 2 wetlands as this activity is appropriate on the West Coast. This illustrates the difference between West Coast wetlands and those located elsewhere in the country, and the need to apply regional differences. Alternatively, this could be addressed through the application of exemptions.</p> <p>We <b>strongly recommend</b> that the Freshwater Package provides the ability to apply exemptions to recognise regional differences.</p>
<p><i>Sphagnum moss harvesting</i></p>	<p>As drafted, the proposed NES would limit the ability of sphagnum moss to be harvested from wetlands. Sphagnum moss harvesting is a unique industry on the West Coast, and has the potential to provide a natural alternative substance to synthetic materials in some manufacturing processes such as filters for industrial cooling towers. Under the current proposal, consent would be required as a non-complying activity. This would be a disincentive for an important and sustainable industry.</p> <p>We <b>strongly recommend</b> that the Regulations be redrafted to provide for the sustainable harvesting of sphagnum moss.</p> <p>Further information regarding the planning proposal for sphagnum moss harvesting in Schedule 2 wetlands is included in Appendices 2 and 3 of this submission. Additionally, below is a link to an Envirolink report supporting the proposed activity, in the section on Council's website on the Proposed Plan Change 1 to the Regional Land and Water Plan.</p> <p><a href="https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Publications/Regional%20Plans/Regional%20Land%20and%20Water%20Plan/WCRC%20Sphagnum%20Envirolink%20Report%202017.pdf">https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Publications/Regional%20Plans/Regional%20Land%20and%20Water%20Plan/WCRC%20Sphagnum%20Envirolink%20Report%202017.pdf</a></p>

## Appendix 1 - West Coast wetland planning process

The following provides a summary of the planning process the West Coast Regional Council (the Council) has undertaken in regards to the management of wetlands.

### Identifying the issue in managing wetland areas on the West Coast

In 2002 Council notified the Proposed Land and Riverbed Management Plan, which was prepared to establish a framework to promote the sustainable management of land and riverbeds in the region. Rules in the Plan that triggered the need for consent (for example, earthworks and humping and hollowing) excluded works in wetlands. This was problematic for the West Coast as the RMA definition for wetland is broad and could include swampy paddocks if they contained plants that had adapted to wet conditions.

One of the key points that had arisen at the hearings was the lack of certainty in relation to rules that controlled land use in wetlands. The main problem was that there were no maps in the Plan that defined the boundaries of these wetlands meaning there was no certainty for landowners as to what could be developed as of right and what would require a consent. The provisions in the Proposed Plan were based on theory and examples from other regions. It became clear that the abundance of wet land on the West Coast differed markedly to other regions.

Boffa Miskell was contracted to undertake investigation work into the significant wetlands on the West Coast. Eighty-two wetlands were identified as being 'potentially significant' in a desktop study using the ecological criteria being used at that time. In 2004, Council evaluated the report's 82 potentially significant wetlands and recommended 46 of these be included in an initial list of 'significant wetlands', and the rest be considered 'other wetlands' to be prioritised for protection through voluntary means.

In March 2005, consultation meetings were held around the region for landowners to learn about the variation process, the reasons for it, and their role in the process. Letters were sent to each of the affected landowners and individual meetings were organised to visit sites if requested. Some sites were unable to be visited, therefore aerial photos etc. were used. Site boundaries were assessed for accuracy but no ecological assessments were completed. In some cases sites were removed if they clearly no longer existed and others had boundary lines revised. A number of wetlands were removed through this process as they were found to no longer be a wetland, obviously have no significant values, or were located in the Coastal Marine Area and were thus protected by rules in the Coastal Plan.

The Council decided to review its approach regarding wetlands. Therefore, in June, the Council formally withdrew the sections relating to the management of wetlands from the Proposed Regional Land and Riverbed Management Plan Incorporating Decisions dated 4 September.

### Schedule 1 and Schedule 2 wetlands

In 2005 the Council added approximately 20 Schedule 1 wetlands to the proposed Regional Land and Riverbed Management Plan (this Plan eventually became the Regional Land and Water Plan) by way of Variation 1 to the Plan. Following the release of Decisions, Variation 1 was appealed to the Environment Court.

The Department of Conservation provided evidence of an additional 200 wetlands to be included. Through the Environment Court these additional wetlands were added to the Plan as Schedule 2. Much of the analysis of these areas was completed using old soil maps.

The final Environment Court decision, released in 2012, determined Schedule 1 wetlands to be ecologically significant (proven by means of ecological assessment), and Schedule 2 wetlands were either significant or likely to be significant. The Court also accepted that the maps used to determine the Schedule 2 wetlands were out of date and directed the Council to work with the Department to review the boundaries and confirm whether they had wetland values or not.



There was no consultation, or involvement, of wetland landowners with the Environment Court proceedings due to the RMA Schedule 1 process. The Court was not in favour of involving them during this stage when asked by the Council. Landowners found out about the change to their land status and the new rules pertaining to these, following the release of the final Court decision.

### **Council review of the boundaries**

In 2012, the Council employed a Wetland Co-ordinator to work with a Department of Conservation (DOC) Ecologist to review the boundaries of the Schedule 2 wetlands.

This process involved informing landowners that they had a wetland on their property and then undertaking site visits to areas where landowners questioned the boundary identified. This took three years.

The assessments undertaken were to confirm whether the areas had wetland values or not, rather than whether the area was significant, and establish where the boundaries of the wetland were in reality.

### **Plan Change 1 to the Regional Land and Water Plan**

In August 2016, Council notified proposed Plan Change 1 p(PC1) to the Regional Land and Water Plan as required by Schedule 1 of the RMA. The purpose of the pPC1 was to amend the boundaries of 68 Schedule 2 wetlands where wetland values were not present.

In June 2018, the Council held the first hearing for pPC1 whereby several wetland landowners raised concerns about their wetlands. The Hearing Panel commissioned a report to assess the boundaries of 13 Schedule 2 wetlands using an appropriately qualified person (Wetland Assessor).

In January 2019, the hearing reconvened for a second time. DOC raised concerns about eight of these wetland areas. The Hearing Panel directed a DOC Ecologist and the Wetland Assessor to review these eight areas. This included site visits to three areas where they completed a Dominance and Prevalence test of the vegetation.

In September 2019, the Hearing was reconvened for the third and last time.

The Hearing Panel is intending to complete their recommendations on pPC1 by mid-October 2019 for Council to release the decision in November/December 2019.

### **Issues identified in a desktop analysis process**

The desktop analysis of the Schedule 1 and 2 wetlands raised a number of issues which have taken considerable time and cost to resolve. This has also been extremely frustrating for landowners as well.

The issues experienced are:

- Aerial photography is generally undertaken every four to five years. Depending on when the analysis is undertaken, this can easily become out of date. In many cases, areas that had recently been developed were not captured.
- A key characteristic of a wetland is its hydrology. In many instances, the hydrology of an area cannot be determined from maps or aerial photos alone.
- While an indication of the vegetation type can be obtained, it will not show the level of detail for specific species, or small species such as types of moss, that is needed to confirm if it is wetland.
- There is not the level of detail available to accurately identify where the boundary of the wetland is.
- Desktop analysis, especially for the West Coast, often identifies vegetation as being wetland vegetation when it is actually rough pasture.
- Some areas may have consent to be developed which are yet to be exercised, while some areas may have been developed under permitted activity rules.

### **Ground-Truthing**

The wetland identification process has highlighted the importance of ground-truthing areas to be included within a planning framework and to provide certainty to landowners. It can be a time consuming and resource hungry process. Ground-truthing will identify specific species and the location of these species. The natural hydrology of the area can also be identified. Having this information means that the boundary of the wetland area can be accurately identified.

The process followed for ground-truthing wetlands in the pPC1 process was:

- For small areas (2ha or less), establish a representative plot in each major vegetation type and record the plot vegetation in three strata: tree, sapling/shrub, herb.
- For larger areas, establish representative plots along transects and sample the vegetation in three strata: tree, sapling/shrub, herb. The suggested minimum number of transects ranges from three for wetlands up to 1.5 km in length, to 8+ in wetlands longer than 6.5 km long.
- For both areas, refine the wetland boundary on the ground, by using visual clues such as changes in topography (e.g. flat – hillslope interface), vegetation or soils, and/or establish paired sample plots (wetland/upland) located close enough to either side of the wetland boundary to substantiate boundary location.
- It is estimated that each plot takes between 1 – 1.5 hours to complete (not including analysis or time to get between plots).
- Once data is gathered, a hydrophytic vegetation determination can be conducted (Dominance and Prevalence Test) which will determine whether the area assessed is wetland or not.

The steps involved in the Dominance and Prevalence test have not been included here. Note that this can take a few hours per site to complete.

## Appendix 2 – Sphagnum moss harvesting

The final Environment Court decision on Schedule 1 and 2 wetlands resulted in the perverse outcome of requiring consent for sphagnum moss harvesting within these areas. This was certainly an unintended outcome as, when undertaken correctly, the activity has no more than minor effects on the wetland, and contributes to the wetland area remaining wet through regular harvesting.

Through the proposed Plan Change 1 to the Land and Water Plan process, Council proposed to amend the definition of vegetation disturbance to exclude the harvesting of sphagnum moss. This would effectively make harvesting sphagnum moss within Schedule 2 wetlands a permitted activity.

Several submitters raised concerns that harvesting techniques could damage the wetland. Council commissioned a report through EnviroLink to assess the effects harvesting would have on these wetlands. The report can be found on the Council's website via this link:

<https://www.wcrc.govt.nz/repository/libraries/id:2459ikxj617q9ser65rr/hierarchy/Documents/Publications/Regional%20Plans/Regional%20Land%20and%20Water%20Plan/WCRC%20Sphagnum%20EnviroLink%20Report%202017.pdf>

The EnviroLink Report concluded that harvesting moss using sustainable methods, such as crushing and leaving a proportion of moss, would not damage the wetland. The Report also concluded that moss harvesting helps to maintain the area as wetland. If moss is not harvested then the natural life cycle of some wetlands will eventually see woody vegetation establish and the area dry out, resulting in the wetland becoming a forest.

At the first hearing for Plan Change 1 in June 2018, staff recommended the addition of a permitted activity rule to permit the harvesting of sphagnum moss within Schedule 2 wetlands. This was to acknowledge that harvesting had little impact on the wetlands.

The Hearing Panel is intending to complete their recommendations on Plan Change 1 by mid-October 2019 for Council to release the decision in November/December 2019.

## Appendix 3 – Draft permitted activity rule for sphagnum moss harvesting within a Schedule 2 wetland

### Draft Permitted Activity Rule for the Harvesting of Sphagnum Moss within Schedule 2 wetlands

(from the Section 32AA Report in the Section 42A Staff Recommending Report for the June 2018 Hearing on proposed Plan Change 1 to the Regional Land and Water Plan)

#### **Rule 7a. Harvesting of Sphagnum Moss within Schedule 2 wetlands**

The harvesting of Sphagnum Moss within a Schedule 2 wetland is a **permitted activity** if all of the following conditions are met:

- (a) The Council is notified in writing of the location of the activity and the area to be harvested at least seven working days prior to the activity taking place;
- (b) Photographs are provided to the Council of the area to be harvested at least seven working days prior to the activity taking place;
- (c) The post-harvest moss surface is at or above mean water level;
- (d) Drainage of the area is not altered in any way;
- (e) Only existing formed access to the harvesting area is used;
- (f) Drains and weirs are not used to manipulate water levels;
- (g) The weight of machinery used for harvesting is spread by either:
  - a. Widening the tracks on track-driven vehicles, or
  - b. Using platforms for machinery to drive on;
- (h) Only the living portion (acrotelm) of the moss is removed;
- (i) Crushing of vegetation, to maintain sphagnum dominance, is undertaken either during harvesting, as a component of harvesting, or post-harvest, to rehabilitate the sphagnum moss in the wetland area;
- (j) Machinery and equipment are cleaned prior to entering the scheduled wetland to avoid the introduction of pest, or exotic, plants;
- (k) No harvesting of sphagnum moss or removal of plants is to occur within riparian margins;
- (l) No refuelling of machinery or equipment from bulk fuel tankers (i.e. containers greater than 20 litres in capacity) takes place in the scheduled wetland;
- (m) No fertilisers are dispersed in the scheduled wetland;
- (n) The site is left tidy at the completion of harvesting;
- (o) The activity does not disturb any breeding, roosting or nesting sites of indigenous birds;
- (p) Disturbance of the area is limited to the extent necessary to undertake harvesting;
- (q) Harvesters must:
  - a. Monitor the harvesting operation throughout harvesting;
  - b. Record the information on the prescribed form;
  - c. Provide the prescribed form to Council within 20 working days of the completion of harvesting.

#### **Explanation**

Where one or more of the conditions are not met, a resource consent under Rule 17 will be required.

The conditions of Rule 7A are based on best practice processes to manage the effects of harvesting sphagnum moss, and ensure the ecological values of the potentially significant Schedule 2 wetlands are maintained. If the harvesting activity is not undertaken in accordance with good practice, effects such as dryland plants establishing can modify these wetlands and impact on their significant values.

To meet condition (a) the area proposed to be harvested needs to be shown on a map.

Leaving plants along riparian margins protects the moss from wind damage and provides habitat for species such as for brown mudfish, and other species of flora and fauna.

Condition (q) is included in the rule so Council can monitor the effects of harvesting within Schedule 2 wetlands and ensure the wetland values are maintained. Harvesters need to note that the form requires harvesters to provide photos of the site pre-harvest (these can be the same photos as provided under condition (a)), while harvesting is being undertaken, and post-harvest.

**Rule 7a Form for assessing area of Schedule 2 wetlands following the harvesting of Sphagnum Moss**

General information

Today's date: \_\_\_\_\_  
Harvesting organisation/company: \_\_\_\_\_ Name  
of harvester: \_\_\_\_\_ Name and ID  
of Schedule 2 wetland: \_\_\_\_\_ Site address/  
location of site: \_\_\_\_\_ Legal Description of  
area where site is located: \_\_\_\_\_ Map reference of  
site: \_\_\_\_\_ Area harvested (also  
include map showing the harvested area): \_\_\_\_\_  
Dates that harvesting was undertaken at the site: \_\_\_\_\_

Checklist of conditions to meet

Natural hydrological processes were maintained by:

- The post-harvest moss surface being near but above the water level;
- Drainage of the area has not been altered in any way;
- Only existing formed access was used to get to the harvested area;  
(Note this needs to be shown on a map and attached to this form)
- Drains and weirs were not used to manipulate water levels;

The machinery used spreads the weight over the wetland by either the widening of track-

driven vehicles or using platforms for machinery to drive on;

Crushing of the moss was undertaken;

Only the upper living portion (acrotelm) of the moss was removed;

All machinery and equipment was cleaned prior to entering the wetland;

No removal of plants or moss has occurred within any riparian margins:

No containers larger than 20 liters were used to refuel machinery or equipment within the wetland;

No fertilisers were dispersed within the wetland;

No breeding, roosting, or nesting sites were disturbed;

The site was left tidy following the completion of harvesting;

Disturbance of the area was limited to the extent necessary to undertake harvesting.


More detailed information on particular conditions

Describe how harvesting was undertaken: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe how the machinery used for harvesting spreads the weight over the harvested area (include photos of described machinery): \_\_\_\_\_

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Please provide any other information you feel is relevant: \_\_\_\_\_

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Attach photos showing the site before harvesting has occurred, while harvesting is occurring and post-harvest. (Note photos need to show the date they were taken)

Once compliance staff have received this form, they will organise a site visit to the site to assess the information contained within the form.