

**Proposed Natural Resources Plan for the Wellington Region**

**Supplementary Right of Reply  
For Hearing Stream 4**

**Report date: 17 August 2018**

**Topic: Water quality**

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## **1. Introduction**

1. The Hearing Panel issued Minute #52 on 24 July 2018, requesting legal advice on the issue of scope in relation to Policy P71A, and the process in relation to the recommendations of Policy P71 and P71A.
2. Counsel for Wellington Regional Council provided a Supplementary Legal Submission in Response to Minute #52 on 13 August 2018. At paragraph 10 of this legal submission, it states that there is no scope for the dissolved oxygen (DO) standard of recommended Policy P71A to be more stringent than that in the notified version of the proposed Natural Resources Plan (proposed Plan), other than in significant water bodies, and specifically those rivers in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat). At paragraph 25, it states that the Hearing Panel may, if it so chooses to, rely on the evidence of Ms McArthur for the Minister of Conservation and the scope provided by the notified version of the proposed Plan and the submissions, accept the recommended Policy P71A, subject to amending the DO standards.
3. Consequently, this supplementary reply includes an amended recommendation in respect of Policy P71A after consideration of this legal submission and the Hearing Stream 4 evidence.

## **2. Policy P71A: Quality of wastewater discharges**

4. I have reconsidered my recommended amendments to Policy P71A and propose an alternative recommendation to address the questions raised in relation to scope outlined in Minute #52 and set out in the legal submission.
5. Scope is provided for in the submission of the Minister of Conservation submission (S75) which sought a 7-day mean minimum dissolved oxygen concentration of no lower than 7mg/L in rivers identified in Schedule A and Schedule F1, and a daily minimum dissolved oxygen concentration of no lower than 5mg/L for the same scheduled rivers.

6. Fish and Game's submission (S308) sought the same more precautionary dissolved oxygen standards apply to the same scheduled rivers, and included Schedule I also.
7. The following amendments (in green text) replace the recommendation in my Right of Reply report:

Policy P71A: Quality of wastewater discharges

As a minimum, The adverse effects of point source discharges of wastewater to rivers shall be minimised by the use of measures that result in the discharge meeting the following water quality standards in the receiving water after the **zone of reasonable mixing**:

- (a) below the discharge point compared to above the discharge point:
  - (i) a decrease in the Quantitative Macroinvertebrate Community Index of no more than 20%, and
  - ~~(ii) a change in pH of no more than  $\pm 0.5$ , and~~
  - (ii) a decrease in water clarity of no more than:
    1. 20% in **River class 1**, or
    2. 33% in **River classes 2 to 6**, and
  - ~~(iii)~~ a change in temperature of no more than:
    1. 2°C in **River classes 1 or 2**, or
    2. 2°C in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or
    3. 3°C in any other river, and
- (b) a 7-day mean minimum dissolved oxygen concentration of no lower than:
  - (i) 7mg/L in rivers identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat), and
  - ~~(ii) 5mg/L in any other river, and~~
- (c) a daily minimum dissolved oxygen concentration of no lower than:
  - (i) 5mg/L in rivers identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat), and

(ii) 4mg/L in any other river.

All water quality standards apply at all flows except (a)(ii) which applies at less than **median flows**, (a) applies at all times of the year, (b) and (c) apply only between 1 November and 30 April each year.

8. Therefore, the amended Policy P71A would read as follows (a clean version for ease of reading):

#### Policy P71A: Quality of wastewater discharges

As a minimum, **point source discharges** of wastewater to rivers shall meet the following water quality standards in the receiving water after the **zone of reasonable mixing**:

- (a) below the discharge point compared to above the discharge point:
  - (i) a decrease in the Quantitative Macroinvertebrate Community Index of no more than 20%, and
  - (ii) a decrease in water clarity of no more than:
    - 1. 20% in **River class 1**, or
    - 2. 33% in **River classes 2 to 6**, and
  - (iii) a change in temperature of no more than:
    - 1. 2°C in **River classes 1 or 2**, or
    - 2. 2°C in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or
    - 3. 3°C in any other river, and
- (b) a 7-day mean minimum dissolved oxygen concentration of no lower than:
  - (i) 7mg/L in rivers identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat), and
  - (ii) 5mg/L in any other river, and
- (c) a daily minimum dissolved oxygen concentration of no lower than:
  - (i) 5mg/L in rivers identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat), and
  - (ii) 4mg/L in any other river.

All water quality standards apply at all flows except (a)(ii) which applies at less than **median flows**, (a) applies at all times of the year, (b) and (c) apply only between 1 November and 30 April each year.

9. An amended Section 32AA assessment is provided in Appendix A.

## Appendix A: Water quality – Section 32AA Assessment

This table sets out only the provisions of the notified proposed Plan on this topic **for which submissions were specifically received**. Recommended additions to the notified text are in underline and deletions are ~~strike-through~~ text. The section 32AA assessment follows alongside for each of the provisions where amendments have been recommended by the officer. If the officer does not recommend any changes, the provision appears in grey.

Red text amendments = recommendations from the officer's s42A report

Blue text amendments = updated recommendations from the officer's Right of Reply

Green text amendments = updated recommendations from the supplementary Right of Reply

Note that requests for **new** provisions are not included in these tables.

| Issue No. from Section 42A report and section of right of reply report                 | Chapter from the proposed Plan | Provision from the proposed Plan | Requested amendment  | Evaluation of amendment (Section 32AA assessment)  |
|--|--------------------------------|----------------------------------|--|--|
| Refer to Issue 9.3 and Supplementary Right of Reply dated 16 <sup>th</sup> August 2018 | Chapter 4                      | Policy 71A                       | <p><b>Policy P71A: Quality of <u>wastewater</u> discharges</b></p> <p><u>As a minimum, the adverse effects of point source discharges of wastewater</u> to rivers shall <del>be minimised by the use of measures that result in the discharge</del> meeting the following water quality standards in the receiving water after the <b>zone of reasonable mixing</b>:</p> <p>(a) below the discharge point compared to above the discharge point:</p> <p>(i) a decrease in the Quantitative Macroinvertebrate Community Index of no</p> | <p><b><u>Effectiveness and efficiency</u></b></p> <p>The recommended amendments to Policy P71 make clear that the adverse effects of point source discharges of wastewater shall meet appropriate water quality standards in the receiving water after the zone of reasonable mixing.</p> <p><b><u>Costs</u></b></p> <p>Improvements of the quality of the discharge will involve additional costs. However, the recommended amendments maintain the intent in the proposed Plan of maintaining or improving the water quality of rivers, and reducing wastewater discharges to rivers. Costs in relation to meeting the pH limit and monitoring pH will be reduced.</p> |

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|  |  |  | <p>more than 20%, and</p> <p><del>(ii) a change in pH of no more than <math>\pm 0.5</math>, and</del></p> <p>(iii) a decrease in water clarity of no more than:</p> <ol style="list-style-type: none"> <li>1. 20% in <b>River class 1</b>, or</li> <li><u>2.</u> 33% in <b>River classes 2 to 6</b>, and</li> </ol> <p><del>(iii)</del> a change in temperature of no more than:</p> <ol style="list-style-type: none"> <li>1. 2°C in <b>River classes 1 or 2</b>, or</li> <li><u>2.</u> 2°C in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or</li> <li><u>3.</u> 3°C in any other river, and</li> </ol> <p>(b) a 7-day mean minimum dissolved oxygen concentration of no lower than:</p> <p><u>(i) 7mg/L in rivers identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat), and</u></p> <p><u>(ii) 5mg/L in any other river, and</u></p> <p>(c) a daily minimum dissolved oxygen concentration of no lower than:</p> | <p><b><u>Benefits: (environmental, cultural, economic and social)</u></b></p> <p>There will be environmental and cultural benefits from maintaining the quality of rivers where wastewater is being discharged. The amendments will contribute to achieving the outcomes sought by the proposed Plan, and will avoid unnecessary compliance with a pH limit that would not necessarily relate to discharge quality.</p> <p><b><u>Risk of acting or not acting</u></b></p> <p>The risk of not acting is that the Plan would not be consistent with the provisions of the proposed Plan and higher order documents in relation to point source discharges of wastewater to rivers. The policy as notified is not as clear in terms of its relationship to the other wastewater policies and could contribute to a decline in water quality in scheduled rivers. Requiring compliance with a pH limit which may be influenced by factors other than the quality of the discharge is not effective or efficient.</p> <p><b><u>Decision about most appropriate option</u></b></p> <p>In my opinion the proposed amendment is the most appropriate way to address deficiencies of the policy identified in submissions and assessed in Issue 9.3. It is considered to be more appropriate in achieving the purpose of the RMA than the notified version of the policy.</p> |
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|  |  |  | <p>(i) <u>5mg/L in rivers identified in Schedule A (outstanding water bodies), Schedule F1 (rivers/lakes) and Schedule I (trout habitat), and</u></p> <p>(ii) <u>4mg/L in any other river.</u></p> <p>All water quality standards apply at all flows except (a)(iii) which applies at less than <b>median flows</b>, (a) applies at all times of the year, (b) and (c) apply only between 1 November and 30 April each year.</p> |  |
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