

# Submission



## Draft National Policy Statement - Improving the protection of drinking-water sources

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SUBMITTED TO: Ministry for the Environment  
Via online form

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### Introduction

1. Ashburton District Council (Council) welcomes the opportunity to submit feedback on the Ministry for the Environment's January 2022 consultation document '*Improving the protection of drinking-water sources.*' This submission has been prepared by management and approved by Council.
2. Located an hour's drive south of Christchurch, more than 35,400<sup>1</sup> residents live in our district. Approximately 50% of our residents live in the main town of Ashburton, with the rest of our residents living rurally or in smaller towns or villages across the district.
3. Ashburton District (the District) has experienced moderate and sustained population increase since the mid-1990s, increasing by 23% between 2006 and 2013 (a 3.3% increase per year). This growth, however, has now slowed, with an average growth of 1.3% per year since 2013.
4. The Council currently manages 12 drinking water supply schemes throughout the District. These schemes service approximately 70% of residents and over 10,300 homes and businesses. Of these 12 drinking water supply schemes, nine service less than 500 people including two that are classified as "rural agricultural drinking water supplies".

### General comments

5. Council supports the objectives of both the Consultation Document and the proposed NES-DW (National Environmental Standard – Drinking Water). It is acknowledged that there is scope for improvement given the 2016 drinking water contamination incident in Havelock North.
6. Council supports the intention of a multiple barrier approach to preventing drinking water source contamination. This notes the intrinsic value of fail-safes and redundancies, particularly in such a vital utility as drinking water.
7. Council supports the intention to significantly expand the mapping of water sources. While the majority of our residents source their drinking water from Council-managed schemes, the remainder source their water from private water sources. This indicates that there is the potential (if not necessarily the actuality) that some residents in the District access drinking water from less safe sources.

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<sup>1</sup> Statistics New Zealand Population Estimates 30 June 2020

8. Council questions the efficacy of mapping small water sources (as defined by the number of people that the source services), relative to the cost for doing so. This is particularly the case as our District is relatively rural and with a high number of private or self-sufficient water sources. The consultation document does not make it clear where a potential cut-off point would be between a drinking water source large enough to be mapped and have a SWRMA, or not. Therefore, Council asks for further clarification and consultation in this area.
9. The long-term impact on cost and administrative burden that will fall on regional councils if mapping and source water risk management areas (SWRMAs) are required for every water source appears to be onerous. As the consultation document outlines<sup>2</sup>, water management and protection is a specialist skill which means that it may not currently get sufficient resourcing or attention; conversely, to meet the requirements of the proposed reforms would require significant cost to bridge any existing resourcing gaps in specialists. While it is not clear who will pay for this, Council is concerned this is a further burden applied to ratepayers.
10. Council asks for further information about the projected economic benefits of the proposed reforms and how these values were calculated. The consultation document estimates these benefits at \$14-\$30 billion over the next 30 years, with the highest economic impact expected for provincial and rural regions. However, it is noted that the economic benefits within the wider Three Water Reforms (which this work is a part of) has been contested, not least by Council and other submitters. Therefore, further transparency is required and would aid Council in being able to arrive at a more comprehensive view on the operational aspects of these proposals.

#### Responses to selected questions in the consultation document

*Q1. Domestic and international evidence suggests that delineating three at-risk areas is a good approach for protecting sources of drinking water. Do you think this is a good approach for protecting our source waters? What other approach can you think of that could contribute to protecting our drinking water sources? Do you think that three areas (and therefore levels of control) are sufficient to protect our drinking water sources?*

11. The proposed approach appears to be a significant improvement upon current practice. The only consideration may be that the step from SWRMA 2 to 3 may be too great (depending on the scale of the catchments) and therefore justify another step and set of controls.

*Selected part of Q2. Should SWRMA for all aquifers be bespoke so their unique features, depth and overall vulnerability can be considered?*

12. While all aquifers have unique characteristics, Council believes a bespoke SWRMA may impose significant additional cost to regional councils (and presumably in turn ratepayers). It is suggested that the SWRMA delineation approach to aquifers and lakes be consistent in this respect. We suggest one approach could be to have the ability for a water supplier to seek a level of protection greater than provided for at the default level may be useful in some cases.

*Q4. SWRMA 1 for lakes and rivers is proposed to extend 5 metres into land from the river/lake edge. This contrasts with 3 metres setback requirement of the Resource Management (Stock Exclusion) Regulations 2020.*

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<sup>2</sup> Consultation document pg 24

*SWRMA 1 is proposed to be used as a basis for controlling activities close to source water intakes, and applies to a wide range of activities. Do you think these differing setbacks will cause confusion or result in other challenges?*

13. Council considers this to be a risk with the proposals and is unclear why there is not a consistent approach. We have a concern that promoting a different set back will result in confusion and calls into the question the science upon which it is based.

*Q5. There is evidence suggesting that a 10-30-metre radius around source water bores is a preferable way to delineate the area where activities would be heavily restricted (SWRMA 1). However, expert advice suggests a 5-metre radius is the most workable option. Do you agree that a 5-metre radius around a source water bore gives enough protection? Why or why not? If not, what alternative would you suggest?*

14. Water suppliers would typically want the largest default area at that level 1 risk, but practically, to provide the level of control required over these areas, the water supplier is almost duty bound to own the land or at least have exclusive access to it. Where ever the science finally lands on this issue, greater area will mean higher source management cost e.g. 78m<sup>2</sup> (5m radius) versus 2,827m<sup>2</sup> (30m radius).

*Q7. How long do you think is necessary for regional councils to delineate SWRMAs for currently registered water supplies in each region using the default method?*

15. We are unsure what an achievable period should be however it should be noted that existing registered water suppliers have until November 2022 to prepare their first SWRM Plans. The suppliers will need this information to inform their risk assessments and management processes.

*Q8. What challenges do you foresee in delineating SWRMAs, when previously unregistered supplies are registered with Taumata Arowai (see Proposal 3 for more details)?*

16. We note the significant administrative burden delineation of currently unregistered supplies will place on regional councils.
17. We also note there may be a lack of knowledge on “legacy” water supplies particularly where inherited by previous generations e.g. the people responsible for establishing the supplies may no longer be living.

*Q10. Do you think consideration should be given to mapping currently unregistered supplies as they register (but before the four-year deadline provided under the Water Services Act), or do you think that waiting and mapping them all at the same time is a better approach?*

18. We note strong arguments can be made for either option however, given the importance of the information to water suppliers and their risk management responsibilities, mapping them progressively may be more useful for those suppliers.
19. If a currently unregistered water supplier is proactive and registers their supply ahead of the registration deadline, the supplier needs to be supported to meet their obligations rather than be subject to unnecessary delay.

*Q11. If a regional council has already established local/regional source water protection zones through a consultative process, should there be provision to retain that existing protection zone as a bespoke method without further consultation or consideration against new national direction?*

20. We see merit with either approach but if the intent is to improve protection of drinking water sources then the new NES-DW affords the opportunity to 'reset' toward a new national direction. The majority of zones in our region have been determined through relatively generic formula and could hardly be considered bespoke.

*Q12. Do you think national direction on activities within SWRMA 1 is necessary?*

- If so, what activities should it address?*
- How restrictive should controls be in SWRMA 1, for resource users other than water suppliers?*
- Are there any activities you believe should be fully prohibited in this area?*
- Are there any activities you believe should be permitted or specifically provided for or acknowledged in this area*

21. We consider it important to address this at a national level. If allowed to be determined at a regional level there is potential for local biases or parochialism to complicate the outcome.

22. We support the prohibition of activities that are known to increase risk of direct and immediate contamination and therefore difficult for the supplier to manage a satisfactory counter-response. Activities that may pose a gradual, delayed or uncertain risk to source should be captured through a non-complying or discretionary activity status.

23. Notwithstanding the above, landowners upon which these SWRMA are applied need to be able to do what they need to do. There will however be increasing tension between the rules applied to these areas and the access arrangements that the water supplier has in place for the sites. The more stringent the rules, the greater the pressure will be on water suppliers to have exclusive control or ownership of the land.

*Q13. For water suppliers, are there any other activities beyond intake maintenance/management that should be provided for?*

24. It must provide for enhancement / capital upgrading / investigative activities e.g. geo-tech, exploratory bore drilling. Because of their responsibilities under other legislation, the water supplier must be "trusted" not to undertake any work or employ any methodology that would compromise the source water.

*Q15. Do you think national direction on activities within SWRMA 2 is necessary?*

- If so, what activities should it address?*

25. Yes, we consider it important to address this at the national level for the reasons as previously noted.

26. The proposal appears to address the main risks although the language seems to focus on direct impacts or acute risk. It may be appropriate for consideration to be given to activities that may

result in delayed or longer term impacts. In some cases impacts on the water supply arising from chronic risk factors may be as severe as those arising from acute risk.

*Q16. In your view, how much will this proposal impact the current situation in your region?*

- *What discharges to water are currently permitted?*
- *Should provision be made to continue to permit those activities? What controls are typically used to ensure potential adverse effects are managed?*

27. The proposal will result in larger areas being controlled. Council has carried out preliminary investigations in 2020 for the Ashburton water supply (groundwater sourced) which are largely based on the science underlying the NES proposal. In all cases the area delineating the zone of influence (SWRMA2) was larger than the current protection zones that were in place.

28. If the intention of the NES-DW is to improve sources of drinking water rather than to arrest any further decline then any proposal must have provision to control existing activities. It may be appropriate to provide a transition period for these existing activities to be formalised through a consent process or if appropriate, cease.

*Q17. Are there any other activities that should not be permitted within SWRMA 2?*

29. There may be activities that do not discharge contaminants per se, but the discharge may result in changes to aquifer pressures through localised mounding e.g. ground source heat pump systems. We understand through previous investigations that discharges of this nature may mobilise pre-existing contaminants i.e. transport Nitrates into deeper source aquifers.

*Q18. The original intent of SWRMA 2 was to manage microbial contamination. However, there are indications that protections against other contaminants may be required. What contaminants do you think should be controlled in SWRMA 2?*

30. It is a matter of public record that parts of Canterbury are nitrate 'hotspots' so perhaps consideration should be given to more stringent management of nitrate in SWRMAs.

*Q21. What is your view on how to address issues with bores – should it be enough to amend the NZS 4411:2001 (with reference to that standard in the NES-DW), or should greater direction be given in the NES-DW itself?*

31. To have certainty in the outcome we consider it necessary to be addressed in the NES. We are not convinced that a NZS review process will deliver the necessary outcomes. Leaving the matter to be addressed within a future reworked NZS 4411 risks not achieving the level of protection sought.

*Q22. For existing bores:*

- *What is your view on requiring unused bores to be decommissioned?*
- *Should bores of poor quality be required to be upgraded or decommissioned? What timeframe might be reasonable to do this?*

- *For many older bores there are no records. What sort of evidence could be used to support the ongoing use of these bores, or demonstrate they pose a low risk to the security of the aquifer?*
- 32. We are of the view that best practice should include decommissioning of unused bores. Poorly constructed bores or those in poor condition should be required to be upgraded, or decommissioned. These requirements could be phased in over 2-3 years.
- 33. In most cases, bore-head location photos; confirmation of depth, and casing attributes will provide some level of understanding. It is also possible to utilise CCTV to inspect the internal casing to assess condition and confirm screening details but we are concerned that this could be impractical on a large scale.

*Q23. What is your view on prohibiting below-ground bore heads?*

- 34. We used to have below ground bore-heads. This approach was selected at the time to reduce the visual impact of the bore-head in amenity areas. They were extremely robust structures, well-sealed and unlikely to accept surface water. However, given the very strong language from the HNI findings, we chose to raise all existing below ground bore-heads. This work is now complete.
- 35. We would suggest that a prohibition is a clear and unambiguous position to take and reduces many risks immediately. However, there may yet be instances where below-ground bore heads could be appropriate subject to satisfactory management of the risks.

*Q24. Regional councils are responsible for control of the use of land for the purpose of maintenance and enhancement of the quality of water in water bodies (RMA section 30(1)(c)(ii)). Do you think territorial authorities have a role in land management over aquifers, and if so, what is that role?*

- 36. TAs have a duty during subdivision processes to ensure residential allotments have services so it might be argued that TAs do have responsibility to consider whether a development would compromise aquifers e.g. in terms of drinking water for others. For this reason, it is common for relevant applications to be considered through joint processes between the Regional and District Council.

*Q27. What activities do you believe the NES-DW should retrospectively apply to / not apply to, and why?*

- 37. It would be helpful to apply to existing infrastructure connected to the source e.g. bores, irrigation intakes/discharges, regardless of whether the infrastructure is actually in use. It is very difficult for a water supplier to manage a risk if they don't know the risk exists.

*Q28. In your view, what are the key challenges and benefits to retrospective application?*

- 38. There may be some reluctance from landowners affected by the changes. This may be perceived as further erosion of property rights, and result in some apathy and reluctance to engage in the process.

39. Consideration needs to be given to the cost and effects of what activities may no longer be permitted under the NES-DW. The proposals – in their current form – do not allow us to make a fuller assessment of this. However, the changing or “tightening” of standards which affects existing activities is non-controversial and has many precedents. Compensation to those affected by any changes, or a phase-in period to aid compliance may need to be considered.

*Q29. Do you agree with the proposed list of criteria?*

– *Are any additional criteria needed, or clarifications?*

40. We hold concerns in regard to the criterion “the degree to which the water supplier’s source water risk management plan under the WSA addresses the activity”. This may result in similar outcomes that occur now in that if the water supplier has good risk management planning in place, then greater impact on the source may be permitted. This outcome would be inconsistent with the principles of Te Mana o te Wai.

*Q30. What types of activity might pose a significant risk to a water supply in an accident, emergency, or other natural event?*

41. The recent flood event in our district in May 2021 highlighted the risks of natural events on our water supplies. While some of our supplies were challenged with water quality issues due to the sheer volume of water, it highlighted the risk of a range of activities to our water supplies. For example contaminants which are stored near waterways or water sources where there is scope for the controls which separate the contaminants from these areas to fail. Therefore, Council supports the careful consideration of the controls imposed on such contaminants (and the resilience of said controls in an unpredictable event such as a natural disaster) which are situated near waterways at the consenting stage, and as part of an ongoing monitoring process.

42. We also note the strong reliance some water supply sources may have on river protection works. As for the event noted above, the impacts arising from the river “breakouts” was significant and lasted many days following the event. Therefore, we see it essential that activities such as river protection works are captured in the NES-DW to enable consideration of design and level of service factors.

*Q31. Do you think it is reasonable to require all activities with some potential to affect source water to undertake response planning, or just those with a higher risk (likelihood and consequence)?*

43. As implied above in response to Q30, it would seem prudent and appropriate for all activities to undertake some degree of response planning. The extent and resourcing of said planning should be proportional to the size of the risk.

*Q32. Do you agree that resource users should engage with water suppliers in consenting matters, within SWRMA 1 and 2?*

44. We believe it is essential that resource users should be required to engage with water suppliers. The WSA has strengthened the requirements placed on water suppliers in regard to source risk

management. This engagement will ensure the water supplier is aware of proposed (or existing) activities occurring in the SWRMA.

*Q33. What hurdles do you see in promoting this engagement with water suppliers?*

45. The principal issue will lie in the water supplier's ability to respond. This may be due to insufficient resources to deal with enquiries and/or a lack of technical expertise required to assess what the impacts from activities might be on the source. It may be necessary for regional councils to provide some guidance as part of these engagement processes to ensure water suppliers have access to good information.

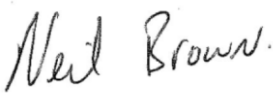
*Q34. What support might small water suppliers need to effectively engage in the consent process?*

46. As noted above, many water suppliers may not have the technical expertise to respond adequately to the matter. So the ability to access technical assistance will be critical to avoid well-resourced applicants pressuring small water suppliers. This could be provided by the regional authority or at a central level through Taumata Arowai.

#### **Concluding comments**

47. Council has a significant interest in maintaining and improving the quality and safety of drinking water within the District. Funding decisions made to date and as outlined in the Long Term Plan indicate that this is a priority area for Council.
48. Council supports the intentions of the proposals, yet has some doubts about some of the operational aspects and calls for engagement and clarification with Government, Councils, ratepayers, and other stakeholders prior to these reforms proceeding further.

Ngā mihi



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