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Committee Regulatory Committee
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Submission on the proposed National Environmental Standard for Ecological Flows and Water Levels

1. Purpose

To seek the Committee's approval of a submission on the *Proposed National Environment Standard for Ecological Flows and Water Levels* (the proposed standard).

2. Significance of the decision

The matters for decision in this report **do not** trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

3. Background

The Minister for the Environment can make national environmental standards. Regional, city and district councils must implement the standards. In some circumstances, councils can impose stricter standards through rules in regional and district plans.

This standard is part of central government's Water Programme of Action, which began in 2003. Water allocation is a key part of the Water Programme of Action, and central government signalled its intention to prepare this national environmental standard in 2006. Other national standards that are part of central government's programme are a standard for drinking water-sources that is already in place and a standard for water measuring devices that has been through the submission process and is close to being gazetted. Another key part of the Water Programme of Action is a national policy statement for fresh water that will address water quality and water allocation. Ministry for the Environment staff have indicated that a proposed national policy statement for fresh water may be released in August 2008.

The proposed standard was released on 29 March 2008. Copies have been placed in the Councillors Lounge. Another document, *Draft Guideline for the Selection of Methods to Determine Ecological Flows and Water Levels* (the guideline) is referred to in the standard, and it was released at the same time. The closing date for submissions was to be 31 July 2008, but this has now been extended to 29 August 2008. Because a proposed national policy statement for fresh water may be released in August 2008, changes to the submission may be needed. We therefore suggest that any amendments be able to be confirmed by the chair of the council

The Standard will have implications for two Divisions of Greater Wellington – the Water Supply, Parks and Forests Division, which is responsible for water supply to Wellington, Porirua, the Hutt and Upper Hutt cities, under the Wellington Regional Water Board Act 1972, and the Environment Division, which is responsible for controlling the allocation of water and setting minimum or maximum flows or levels of water under the Resource Management Act 1991. The Environment Division will be responsible for implementing and enforcing the Standard.

4. The proposed national environmental standard

The stated intent of the proposed standard is to promote consistency in the way decisions are made to ensure sufficient variability and quantity of water flowing in rivers, ground water systems, lakes, and wetlands.

The discussion document includes the following objectives for the standard:

- To ensure that all resource consent decisions on applications to take, use, dam and divert water from rivers, lakes, wetlands and aquifers are made in the context of a clear limit on the extent to which flows and water levels can be altered.
- To ensure that all resource consent decisions on applications to take, use, dam and divert water from rivers, lakes, wetlands and aquifers are made in the context of a clear specification of available water.
- To reduce conflict and provide consistency on the appropriate technical methods used to assess the ecological component of environmental flows and water levels.

The two elements in the standard for achieving these objectives are:

- Setting interim limits on the alterations to flows and/or water levels for rivers, wetland and groundwater systems that do not have limits imposed through regional plans.
- Providing a process for selecting the appropriate technical methods for evaluating ecological flows and water levels in rivers, lakes, wetland and groundwater systems.

5. Greater Wellington's submission

Greater Wellington's submission is appended in **Attachment 1**. It supports the overall approach of the standard, in particular the two elements described above. Our submission focuses on how the standard will be applied in practice.

The main concern is what happens to minimum flows that don't comply with methods in the standard to determine ecological flows and water levels when operative regional plans are reviewed. The review of the Regional Freshwater Plan for the Wellington region commences next year. Many of the minimum flows in it were established using methods that will not meet the standard, and there is insufficient time to apply the methods to all rivers already in the operative plan. A transitional period is needed for appropriate low flow evaluation work to be completed; otherwise the interim flows in the standard would have effect.

Most (72 percent) of the water allocated in the Wellington region is for public water supply. In the submission we provide a brief analysis of the reduction in available water if the interim minimum flow limits were applied to the Hutt River, Wainuiomata River and Orongorongo River. Available water would be reduced by 63 million litres per day, or about 40 percent of the water supplied to the Wellington metropolitan area.

We are seeking a change to the standard that will provide a transitional period to enable flows in operative regional plans to be retained when they are reviewed, so that work can be completed according to methods in the standard. A ten year transition period is requested.

Other changes Greater Wellington is seeking to the proposal are:

- Interim allocation limits in the standard of 25 per cent and 35 per cent of the mean annual low flow for rivers and streams with mean flows of less and greater than five cubic metres per second, respectively.
- Provision in the interim river and stream allocation limits for the taking of more than the allocation limit at moderate to high flows to allow additional water to be taken for water harvesting.
- A clear statement in the standard that the interim river and stream allocation limits do not apply to the water in impoundments (i.e., behind dams).

- Development of a protocol or guideline for the estimation of mean annual low flows in rivers with little hydrological data.
- Revisit the wording of interim limits for wetlands to address the duration of water levels and clarify whether the interim limits will apply to all takes that may affect water levels in a wetland, or only to direct takes from wetlands.
- Clarification in the standard of where interim flows will be measured in rivers.
- Development of a protocol or guideline for the estimation of average annual groundwater recharge in aquifers.
- Further work on and clarification of the part of the proposed interim limit for groundwater that requires application of the environmental flow or water level set for a surface water body to the management of connected groundwater takes (section 5.1.1).
- Provision in the standard of clarity on where interim flows will be measured in rivers.
- Clarification, or deletion if it cannot be made workable, of the part of the interim groundwater allocation limit that requires application of the environmental flow or water level set for a surface water body to the management of connected groundwater takes.
- Inclusion of decision pathways for setting ecological flows and water levels in the “Rivers” and “Lakes and Wetlands” sections of the guideline, similar to the approach taken in the “Groundwater” section of the guideline.
- Provision in the guideline of better justification (e.g. referencing) for the thresholds of hydrological alteration, and description of how the numbers in Table 2.3, 3.5 and 4.2 were derived.
- Clarification in the “standard” of whether the minimum flow or allocation limit prevails when the interim limits for rivers and streams are applied, and the minimum flow and allocation limits are in conflict.

6. What happens next

The Ministry for the Environment will prepare and make available a summary of submissions. If a decision is made to go ahead with the standard, it will be drafted and come into force as a regulation under the Resource Management Act 1991.

7. Communication

The process for preparing a national standard is controlled by central government and no external communication by Greater Wellington is necessary at this time.

8. Recommendations

That the Committee:

1. ***Receives*** the report; and
2. ***Approves*** the submission on the Proposed National Standard on Ecological Flows and Water Levels, subject to any amendments by the Chair as a result of a national policy statement on fresh water being released before 29 August 2008.

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Attachment 1: Submission on the Proposed National environmental standard for Ecological Flows and Water Levels