

# INTEGRATED CATCHMENT MANAGEMENT PLANS AND CATCHMENT MANAGEMENT PLANS – WHAT HAVE WE CREATED?

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## ABSTRACT

In simple terms, Integrated Catchment Management Plans (ICMPS) and Catchment Management Plans (CMPS) are intended to be tools for managing water resources and land use on a catchment scale. However, there is a wide range of differing interpretations and thus confusion about both what these plans are intended to do and how they should be applied. This has resulted in issues with their effective implementation and lost opportunities in achieving environmental benefits and infrastructure integration as well as a plethora of such documents being produced at great cost with very little national consistency and real challenges for those responsible for their implementation.

Whilst the theory and intent of ICMPs and CMPs is fully supported, the successful delivery of the plans' intended outcomes versus the time and investment in the development of these plans is being questioned.

This paper will explore some of the reasons for the confusion surrounding the development and use of ICMPs and CMPS and will provide suggestions for improving how these plans can truly be used to their full potential.

Firstly, this paper will define what ICMPs and CMPs are and identify the differences between ICMPs and CMPs.

The paper will then discuss the genesis of ICMPs and CMPs in New Zealand, and explore the issues associated with each of the three general approaches – i.e. growth planning requirements, conditions of consent and support documents for resource consents. Examples of these issues include:

- Where ICMPs/CMPs are required to support growth planning, what information should they provide? Should they be setting standards for future discharges? Can they or should they be used to support future network discharge consent applications?
- Should an ICMP/CMP that has been developed to support a district plan change process be considered sufficient to act as an assessment of environmental effects to support a discharge consent under the regional planning framework?
- Can a district plan change hearing be considered sufficient consultation/mitigation for a discharge consent application?
- Where ICMPs/CMPs are required through a condition of consent for a discharge consent, what is their purpose? What is the relationship between an ICMP/CMP and an assessment of environmental effects?

This paper will explore these and other issues identified through our national experiences with ICMPs and CMPs. The paper will conclude with a series of suggestions on how the ICMP and CMP process and implementation can be improved to ensure that ICMPs and CMPs are understood in terms of their purpose and thus effectively developed and implemented.

## KEYWORDS

# **Integrated Catchment Management Plan, Catchment Management Plan, Stormwater Discharge Consents, Resource Management, Assessment of Environmental Effects, Monitoring, Network Discharge Consents, Structure Planning.**

## **1 INTRODUCTION**

With the increasing intensification of land use and the increasing demand for water, the integrated management of land use and the three waters is becoming more and more critical. The best way to achieve this integrated management is on a catchment wide basis. Consequently, the need for effective catchment planning and management is paramount if New Zealand is committed to improving water quality, reducing over-allocation, managing the effects of land use change and intensification and reducing flood risk.

Effective catchment management is underpinned by good plans that are fit for purpose, can be easily understood and implemented and are regularly monitored and updated. Unfortunately, what we are frequently seeing in New Zealand is the preparation of a plethora of plans, often at great expense, which have been prepared without clearly understanding why a plan is required, what outcomes it is intended to achieve, how it will be applied, implemented and enforced, what its relationship is other planning instruments such as district plans and how it will achieve the desired outcomes.

This paper discusses the differences between catchment management plans (“CMPs”) or integrated catchment management plans (“ICMPs”), seeks to identify the circumstances where CMPs or ICMPs” are required, sets out the issues with current practice and provides suggestions for improving practice when preparing plans depending on the drivers for the development of the CMP or ICMP. The main focus of this paper is on urban areas.

## **2 DIFFERENCES BETWEEN ICMPs AND CMPs**

The terms “Integrated Catchment Management Plans” (ICMPs) and “Catchment Management Plans” (CMPs) are commonly used (there are other terms as discussed in section 4.1) to describe the outputs of catchment management planning processes, but what are the differences between CMP’s and ICMP’s? What makes a catchment management plan “integrated”?

To consider these questions, it is worth exploring firstly what is meant by catchment management planning. According to the Auckland Regional Council 2005 guidance, catchment management planning is a process which manages water resources and land use on a catchment scale. It is a management tool to integrate receiving environment values and the risk of discharges. It considers catchment, and network management. This includes environmental sensitivity, catchment values, effects from the quality and quantity of discharges, affordability and proposes a management plan for discharges while balancing these considerations.

A CMP or ICMP is essentially the output from a catchment management planning process. As such, a CMP or an ICMP should therefore identify important characteristics of a catchment in which resource management problems exist or may occur as a result of (re)development or other major changes in activity patterns and should identify the natural and physical constraints of the catchment that control the form and intensity of growth/land use. It may describe alternative futures and identify and evaluate the cost effectiveness of addressing their consequences/adverse effects on the catchment environment, particularly on the hydrological cycle.

Within New Zealand, there is a lack of consistency with how the terms ICMP and CMP are used (see section 4.1 for further details). In terms of current and previous practice, it appears that, fundamentally both ICMPs and CMPs are generally consistent with the above description. The key difference between a CMP and an ICMP is that an ICMP includes wastewater and stormwater, whereas a CMP generally focusses only on stormwater.

### **3 CIRCUMSTANCES WHERE ICMPs OR CMPs ARE REQUIRED**

There are a variety of reasons and drivers for developing ICMPs and CMPs. These include regulatory requirements and the need to address particular issues and problems within a catchment such as managing the effects of land use change, reducing flood risks and improving water quality. The following describes the circumstances that generally trigger the need or requirement to prepare ICMPs and CMPs.

#### **3.1 PLANNED URBANISATION WITHIN A CATCHMENT**

Where major land use change is planned either in a greenfield situation or a brownfield situation some form of structure planning exercise is usually undertaken to establish conceptually the future developed form of the area. These structure plans are prepared either by territorial local authorities (city and district councils) or by private developers. Ideally this structure planning stage should incorporate catchment management planning and the preparation of the structure plan and ICMP or CMP should be an integrated process. More recently some regional councils have been encouraging this approach.

In order for structure plans to be implemented, changes are required to be made to district plans to enable development to proceed. Ideally key principles contained in CMPs and ICMPs should be incorporated into the policy framework of the plan change and particular requirements included as district plan rules. Where an ICMP or CMP has not been prepared as part of the structure planning process then one should be prepared as part of the district plan change process.

ICMPs and CMPs that are developed in conjunction with structure plans and plan changes as part of a major land use change process are or should be designed to anticipate and therefore avoid the adverse effects of the land use change on the environment. These types of plans are proactive and seek to prevent problems associated with land use change rather than react to problems after they have occurred. These types of ICMPs and CMPs can also achieve other beneficial outcomes including improving biodiversity and the integration of recreational and amenity values.

#### **3.2 LAND USE ACTIVITIES ADVERSELY AFFECTING THE CATCHMENT**

CMPs or ICMPs are prepared from time to time to address specific environmental issues such as improving the water quality of urban streams or to manage increasing sedimentation of harbours. Often plans for such purposes are used to facilitate agencies, communities and iwi working together on actions and physical works identified through the development of the plan to enhance ecological, cultural and recreational values of a natural resource. Unlike the plans described above in 3.1, these types of plans are reactive in that they are seeking to address problems that already exist.

#### **3.3 SUPPORT A RESOURCE CONSENT APPLICATION**

Some regional councils through their regional plans establish statutory obligations for territorial local authorities and other network utility operators to prepare CMPs or ICMPs as support documents for resource consent applications for discharges from stormwater networks and other networks such as wastewater and roading networks. These plans are lodged in conjunction with applications for resource consent and in some instances are treated as a substitute for an assessment of effects on the environment (“AEE”) which are required under section 88 of the Resource Management Act 1991 (“RMA”).

The Auckland Council’s Regional Plan: Air Land and Water (“ALW Plan”) sets out in Policy 5.4.6 that:

*“Territorial Authorities should prepare and update as necessary, Integrated Catchment Management Plans for catchments within their districts in order to promote the integrated and sustainable management of diversions, discharges and associated river and lake bed activities.”*

The ALW Plan includes a definition of an ICMP along with Schedule 9 which sets out the matters to be covered in an ICMP.

Other regional councils, for example the Bay of Plenty Regional Council, while not establishing statutory obligations to prepare CMPs and ICMPs to support network or global / comprehensive consent applications encourage such practices through collaborative approaches, guidance materials and non-statutory strategies.

### **3.4 CONDITIONS OF A RESOURCE CONSENT**

Other statutory requirements relating to the preparation of ICMPs and CMPs occur by way of conditions on resource consents for discharges from stormwater networks and other networks (network consents or global / comprehensive stormwater consents). These approaches are common practice for urban catchments in many regions of New Zealand, particularly those that at this stage have not adopted regulatory requirements or do not promote the use of ICMPs or CMPs to support network consent applications.

The conditions requiring the development of ICMPs or CMPs vary from council to council and application to application. Some conditions require the development of an ICMP while others require CMPs, Long Term Stormwater Catchment Management Plans and Stormwater Management Plans. As a minimum, most consent conditions require the plans to include:

- A description of the catchment;
- A description of the network;
- The issues associated with the catchment / network;
- Catchment objectives; and
- A description of proposed works and priorities.

In addition to these requirements, some conditions require the plans to include information on proposed urban growth and development, an assessment of effects of all new stormwater discharges in the catchment including cumulative effects, education programmes, consultation with key stakeholders and acknowledgement of their views on discharge activities, performance measures and an assessment of the availability of management options.

## **4 ISSUES WITH CURRENT PRACTICE**

A huge amount of time, resources and money has been dedicated to producing ICMPs and CMPs over the last decade and this has resulted in the development of a plethora of plans. Given that water quality in many parts of New Zealand continues to decline across a number of indicators (Ministry for the Environment 2007), flood risk and damage to homes, properties and infrastructure continues to rise and that water in catchments continues to be over-allocated, the question has to be asked as to “what is this plethora of plans achieving and what have we created?” The following provides an outline of the various issues we face in terms of current practice in the development and implementation of ICMPs and CMPs.

### **4.1 CONFUSION WITH TERMINOLOGY AND LACK OF CONSISTENCY**

Firstly, there appears to be real confusion over what these plans are and what they should be called. We have ICMPs, CMPs, Comprehensive Catchment Management Plans, Long Term Stormwater Catchment Management Plans, Stormwater Catchment Management Plans, Stormwater Management Plans, Network Management Plans and so on and so on.

ICMPs vary from region to region. In Auckland an ICMP is a plan for the management of stormwater and wastewater discharges, diversion and associated activities. In Hamilton ICMPs are being promoted to integrate the management of the three waters and infrastructure development and land use and CMPs are required as a condition of consent for the City’s stormwater discharges to freshwater. In Wellington ICMPs are required as a condition of the City’s consent to discharge stormwater to the Coastal Marine Area (“CMA”) and in Dunedin ICMPs are support documents for the City’s applications and AEE to discharge stormwater to the CMA.

Consequently there appears to be a real lack of consistency of the use of terms for plans to manage catchments and differing uses of the various terms in different regions. All of which leads to inconsistent approaches and confusion. This is further evidenced in this paper in that due to differing practices we have needed to refer to both ICMPs and CMPs concurrently.

## **4.2 UNDERSTANDING THE DRIVERS**

Compounded by the confusion over plan terminology is in some cases the apparent lack of understanding of the drivers for preparing ICMPs and CMPs and therefore the types of plans required to respond to the driver or circumstance for preparing a plan. ICMPs and CMPs which are prepared to support growth processes and are required to inform and integrate with structure plans and plan changes should be different from ICMPs and CMPs prepared as a requirement of a stormwater discharge consent.

As discussed in section 2 above, ICMPs and CMPs that support growth processes are proactive plans designed to in the first instance avoid the adverse effects of land use change in a catchment. They do this by assisting in ensuring that land uses are located in the right places, thereby avoiding risks associated with flooding, other natural hazards and climate change and identifying requirements for infrastructure and the adoption of green technologies. More sophisticated ICMPs or CMPs in recent times also address other beneficial outcomes such as improving biodiversity and the integration of recreational and amenity values. There are also opportunities for these types of plans to provide for the integration of the three urban waters to protect water quality and achieve the efficient use of water.

ICMPs and CMPs associated with stormwater applications and consents generally have a much greater emphasis on remedying and mitigating the effects of existing land uses on the environment and are often required to be prepared in the absence of sufficient information and evidence of the actual and potential effects of these discharges. Consequently these plans focus on matters such as understanding the activities in the catchment and their potential to generate runoff and contaminants, understanding how networks operate, the locations of discharges and overflows and the sensitivity of the various receiving environments and proposed work programmes to minimise discharges and mitigate effects of contaminants. These plans should also include programmes for further investigations and monitoring required to better understand the effects on the receiving environments.

Given the different drivers for preparing ICMPs and CMPs it is fundamental that those wishing or required to develop ICMPs or CMPs and those engaged to prepare the plans have a very clear understanding of the drivers and the circumstances for preparing the plans. Failure to do this will result, and has resulted, in the preparation of plans that are not fit for purpose, that fail to achieve the outcomes sought and cannot be effectively implemented.

## **4.3 LACK OF INTEGRATION**

Current practice is not necessarily delivering the level of integration required to achieve the environmental benefits and outcomes envisaged by those requiring or developing ICMPs and CMPs. This integration is required at a number of levels, takes significant planning to be effective and can be achieved through a range of mechanisms.

In the first instance, the preparation of structure plans and plan changes, especially for greenfield development is still proceeding in some cases in the absence of, or well in advance of, the development of ICMPs or CMPs for areas. As a consequence, this can compromise the ability to undertake land use planning, water planning and provision of three waters infrastructure in an integrated and efficient manner.

Secondly, while we have ICMPs, they do not take an integrated approach to the management of the three waters. Generally the focus is on stormwater management or as is the case in the Auckland region the management of stormwater and wastewater overflows and discharges. As a consequence, matters such as water quantity, efficient use of water, water conservation and reuse of greywater and wastewater are not currently being considered in ICMPs.

RMA planning instruments create a split between the management of freshwater and the management of coastal and marine waters and separate resource consents are required for network / stormwater discharges to freshwater and to the CMA. As a consequence, where ICMPs and CMPs are prepared for network consents or global / comprehensive stormwater consents it is not generally common practice to lodge consent applications for these discharges to the CMA and to freshwater at the same time. In fact, often such applications are lodged a number of years apart. Consequently, while the freshwater bodies ultimately discharge into the CMA and the contaminants in those water bodies effect the marine environment, in many cases integrated approaches to understanding and managing the overall effects of the network discharges on both types of receiving environment are not being achieved.

The other key area where current practice does not seem effective is integrating ICMPs and CMPs with other plans such as district plans, Long Term Plans (LTPs) and asset management plans (AMPs) to achieve effective implementation. The following section outlines a number of current issues relating to ICMPs and CMPs and their relationships or lack thereof with RMA planning instruments.

#### **4.4 COMPLIANCE AND IMPLEMENTATION**

ICMPs and CMPs are non-statutory documents and can therefore only be implemented by third parties on a voluntary basis and used as guidance material. ICMPs and CMPs can be considered as “another matter” under section 104 of the RMA when considering applications for resource consent, but that is at the discretion of a decision maker.

Therefore, to effectively achieve a plan’s implementation through regulatory mechanisms requires relevant parts of an ICMP or CMP to be included in appropriate statutory documents such as a district plan. This is particularly important where ICMPs and CMPs have been prepared as part of a structure planning / growth planning process. Under such circumstances relevant objectives contained in ICMPs and CMPs can be integrated into a district plans policy framework and particular requirements and compliance matters can be incorporated as district plan rules and methods.

#### **4.5 SUBSTITUTES FOR AEEs**

In some circumstances, ICMPs are being provided as a substitute for an AEE as part of the resource consent process for a network discharge consent. ICMPs and CMPs are not, and should not be considered to be, substitutes for AEEs required under the RMA and should not be submitted with resource consent applications for network consents or global / comprehensive stormwater consents instead of an AEE. ICMPs and CMPs can inform an AEE and relevant information contained in these plans should be included in an AEE, but they are not an AEE. There are a number of risks involved in substituting ICMPs and CMPs for AEEs and these include:

- Not meeting the requirements of the RMA - section 88 of the RMA requires that resource consent applications must include an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment and assessment must be undertaken in accordance with the Schedule 4 of the RMA. Schedule 4 sets out matters that should be included in an AEE and matters that should be considered when preparing an AEE.
- Loss of flexibility - ICMPs and CMPs should be living documents that are regularly reviewed and updated. Where ICMPs and CMPs are lodged with resource consents as a substitute for an AEE, the consents must be carried out in general accordance with that version of the plan lodged with the application, not some future updated ICMP or CMP.
- Increasing the scope of matters over which consent authorities (regional councils) have control or influence – ICMPs and CMPs address a wider and different range of matters than AEEs, particularly so when they have been developed as part of a growth planning process. It is noted that a number of ICMPs and CMPs include matters such as proposed work programmes and priorities, strategic objectives, governance and management responsibilities, design standards and levels of service. It is considered that requiring such information is generally beyond the scope of a consent authority’s functions under the RMA in the context of a resource consent process. If an ICMP or a CMP is substituted for an AEE this could provide the

consent authority with the mandate to influence territorial local authority management and operational matters.

It is considered that regional plans that include rules requiring the preparation of an ICMP as part of the application documentation for network consents or global / comprehensive stormwater consents could be deemed to be ultra vires as they are potentially over-riding the requirement of the RMA for all resource consent applications to include an assessment of environmental effects in accordance Schedule 4 of the Act. It is also considered that the type of information generally required to be included in ICMPs and CMPs goes well beyond the information required by a consent authority to carry out its functions under the RMA in terms of processing resource consents. However, it is worth reiterating that ICMPs and CMPs can be usual sources of information to support a resource consent process. Concerns are raised where requirements for them associated with resource consent processes go beyond or are inconsistent with the statutory framework provided by the RMA for resource consent processes.

## **4.6 QUALITY OF PLANS**

As discussed in section 4.2 above, one of the key concerns regarding current practice in developing ICMPs and CMPs is the apparent lack of a clear understanding as to the drivers for the preparation of the plans and therefore the type of plan that should be prepared. Where drivers are not clearly understood and the purpose of the plan specifically defined, the quality of the plan and its effectiveness will be seriously compromised.

Many ICMPs and CMPs include a huge amount of information and data, but often fail to then take the next step in becoming a good quality and effective planning instruments. The reasons for this include:

- the lack of defined and measureable objectives and outcomes (Feeney, Allen, Lees and Drury 2010);
- the lack of clear implementation mechanisms and methods including the use of district plans, LTPs, AMPs etc.;
- the failure to include monitoring procedures to determine to the effectiveness of the plans; and
- the failure to include requirements for regular reviews and updates, particularly in response results from effectiveness monitoring.

## **4.7 FAILURE TO MONITOR EFFECTIVENESS**

As set out above, another key concern regarding current practice with the development and implementation of ICMPs and CMPs is the need to regularly monitor the effectiveness of these plans in achieving their stated objectives and delivering the outcomes which underpin the rationale for the need for the plan. To ensure such monitoring takes place, the monitoring procedures to measure effectiveness should be included as part of the ICMP or CMP. Where ICMPs and CMPs have been provided as support documents (not AEEs) for consent applications, these monitoring procedures / requirements including reporting on a plan's effectiveness can be included as conditions of consent and thereby incorporating these components of a plan into a regulatory process.

As previously discussed ICMPs and CMPs are living documents that require regular reviews and updating. This is particularly important where changes occur in a catchment, where new growth areas are proposed, and where monitoring identifies issues regarding a plan's effectiveness and changes are required to address these issues. Once again, where ICMPs and CMPs have been provided as support documents for consent purposes, these review and updating requirements can be included as conditions of consent.

## **5 SUGGESTIONS FOR IMPROVING PRACTICE**

### **5.1 ICMPs AND CMPS TO SUPPORT GROWTH PLANNING AND/OR PLAN CHANGES**

Following on from the above comments, the following section provides suggestions for improving practice when preparing ICMPs and CMPS as part of growth planning and/or plan change processes.

#### **5.1.1 INTEGRATE GROWTH PLANNING AND CATCHMENT MANAGEMENT PLANNING**

As noted above, catchment management processes are considered to be a useful tool to support landuse change processes, including growth planning such as structure planning, and can be an important supporting document for district or regional plan change processes.

It is considered best practice to ensure catchment management processes are integrated with (preferably from the outset) structure planning processes and plan change processes. Ideally, a structure plan area should align with the relevant catchment boundaries and there should be constant communication and sharing and interrogation of information between the disciplines involved in both processes.

Catchment management, structure planning and associated plan change development processes are iterative processes that should be utilised to mutually inform each other as they progress. In instances where structure plans are prepared without an associated catchment management process, natural resource constraints may only become apparent after or during a statutory process associated with a plan change. This can cause significant delay and cost, and in some cases, adversely affect the integrity of the process.

#### **5.1.2 IDENTIFY GEOPHYSICAL CONSTRAINTS TO DEVELOPMENT**

Growth planning processes such as structure plans generally involve the investigation and analysis of a geographical area and provision of recommendations to guide the future development of that area. District Plan change processes are usually required to implement these recommendations. These processes should include consideration and identification of geophysical constraints to development (e.g. which parts of the catchment are/will be prone to flooding).

A catchment management planning process can be utilised to identify parts of a catchment that should not be developed, or will require appropriate mitigation measures to be provided, and/or assist in avoiding on-going costs associated with managing cumulative adverse effects associated with hazards such as flooding and erosion.

#### **5.1.3 IDENTIFY SIGNIFICANT INFRASTRUCTURAL AND RESOURCE CONSTRAINTS AND REQUIREMENTS**

By aligning catchment management with growth planning, an understanding of future infrastructural and resource requirements and constraints (and associated costs, timing and responsibilities) can be ascertained.

The technical work underpinning a catchment management process, coupled with the growth projections of a growth planning process can be utilised to establish how growth, the availability of resources (e.g. water supply) and infrastructure should be integrated. This information can (if required) then be transferred into statutory provisions through a plan change process to:

- Control the staging of growth. For example, planning provisions can be developed to control the sequencing of growth to ensure the efficient operation of infrastructure; or
- Ensure development cannot occur without the necessary infrastructure and resources to service it.

#### **5.1.4 ENSURE THE APPROPRIATE OUTPUTS OF THE CATCHMENT MANAGEMENT PLANNING PROCESS ARE GIVEN STATUTORY WEIGHTING**

As noted in section 4.3 above, it is important to have a good understanding of the relationship of an ICMP or CMP with other plans. ICMPs and CMPS are non-statutory documents and can therefore only be implemented



by third parties on a voluntary basis and used as guidance material. ICMPs and CMPs can be considered as “another matter” under section 104 of the RMA when considering applications for resource consent, but that is at the discretion of a decision maker.

Therefore, to effectively achieve a plan’s implementation through regulatory mechanisms requires relevant parts of a plan to be included in appropriate statutory documents such as a district plan. This is particularly important where ICMPs and CMPs have been prepared as part of a structure planning / growth planning process. Under such circumstances relevant objectives contained in ICMPs and CMPs can be integrated a district plan’s policy framework and particular requirements and compliance matters can be incorporated as district plan rules and methods. Examples of aspects of ICMPs and CMPs that may require statutory weighting include:

- Where areas should not be developed (e.g. risks from natural hazards) and development rights should be limited or removed;
- Where sensitive receiving environments require additional protection from development than is currently provided through the planning framework;
- Where a change of policy framework is required to achieve alignment with the objectives/principles of the ICMP or CMP. Catchment objectives or principles are generally developed through a catchment management process. These are generally the result of detailed analysis and an understanding of the subject catchment in the context of anticipated future development. These outcomes should then be adopted by any associated plan change process into a policy framework (i.e. objectives and policies). As with all policy frameworks, it is best practice to ensure that such objectives and policies are focused on the outcome sought, rather than methods for achieving it. For example, there are instances where policy frameworks are seeking the adoption of low impact design methods without a clear description of the outcome they are seeking to achieve by their adoption. Low impact design methods are one way of achieving an outcome, but not necessarily the only or the most appropriate method.
- Where development staging and timing should be controlled to ensure necessary infrastructure is in place (or capacity is available) to support it.

To ensure that aspects of ICMPs and CMPs are appropriately given effect to, it is important to ensure a good understanding of the relevant statutory framework through the catchment management process and to understand where inconsistencies may arise. One method for checking for inconsistencies is to run theoretical development scenario tests through the statutory framework to establish whether inappropriate (in the context of the ICMP or CMP) outcomes can be achieved in the current statutory framework.

Where inconsistencies are identified, consideration should then be given to what changes/amendments to the policy framework are required to ensure appropriate outcomes which align with the direction of the ICMP/CMP. In this context, it is also important to ensure that those outputs from catchment management processes which are proposed to be given statutory weighting are sufficiently robust and evidentially supported. Often such recommendations can significantly impact property rights (e.g. taking away development rights) and are thus often rigorously contested.

## **5.2 ICMPs AND CMPs TO SUPPORT RESOURCE CONSENT APPLICATIONS**

### **5.2.1 ICMPs AND CMPs SHOULD INFORM AEEs AND NOT BECOME AEEs**

As noted in section 4.5 above, there are a number of risks faced when ICMPs and CMPs are adopted as AEEs to support resource consent processes such as a loss of flexibility and, in some cases, being potentially ultra vires.

Taking this into account, it is considered that where ICMPs and CMPs are developed as part of a resource consent process they should be developed as a support document to inform the AEE. Schedule 4 of the RMA provides the statutory framework for what is required within an AEE. Where ICMPs or CMPs are used as an alternative to an AEE, there is a risk (particularly if the drivers for the development of the ICMP or CMP are not well understood) of going beyond the scope of the RMA requirements.

ICMPs and CMPs are useful technical documents that should be used to inform the AEE but should not be developed or intended as an alternative to the AEE.

ICMPs and CMPs are intended to be living documents that evolve over time. Where an ICMP or CMP has been utilised as an AEE for a resource consent process, the approval of that resource consent will require some form of adherence (e.g. to be in general accordance with, be consistent with etc.) to the ICMP or CMP. In this regard where an ICMP or CMP has been utilised as an AEE, it becomes “frozen in time” and the applicant is tied into the requirements of the ICMP or CMP. This can be a particular problem where the ICMP or CMP was initially developed for another purpose (e.g. for growth planning purposes) or where the ICMP or CMP requires certain responses (e.g. the use of certain technology) that prove to be inappropriate at the time of implementation.

In the context of the above comments, it is considered that ICMPs and CMPs developed as part of the resource consent process should be technical documents (similar to other multi-disciplinary inputs required through resource consent processes) that are utilised to input into an AEE. They should certainly provide comment on the environment subject to the resource consent application, the nature of any effects generated by potential discharges as a result of proposed activities and recommendations to avoid, remedy or mitigate those effects. However, they are unlikely to be developed (or have the same statutory requirements to be developed) in a manner sufficient to meet the requirements of Schedule 4 of the RMA and often have multiple other uses (e.g. to inform asset management planning) not relevant to the resource consent process. As such, ICMPs and CMPs are not (and should not be) considered as an appropriate substitute for an AEE.

### **5.2.2 ICMPs AND CMPS SHOULD HAVE PROJECT OBJECTIVES, NOT STRATEGIC OBJECTIVES**

As discussed in section 4.6 above, it has been noted that an issue with the development of contemporary ICMPs and CMPS is a lack of defined and measureable objectives and outcomes (Feeney, Allen, Lees and Drury 2010). It is considered that, when developing objectives and outcomes for an ICMP or CMP for the purpose of supporting a resource consent process, those objectives and policies should be project based and related to the scope of the resource consent as opposed to strategic or high level.

### **5.3 ICMPs AND CMPS REQUIRED AS CONDITIONS OF CONSENT**

Good resource consent conditions are fundamental to ensuring that actual or potential adverse environmental effects of an activity are appropriately mitigated. As discussed in section 3.4, currently there appears to be a broad range of approaches to the matters to be addressed by an ICMP and CMP required by a condition of consent. As a minimum, most consent conditions require the plans to include: a description of the catchment, a description of the network, the issues associated with the catchment/network, catchment objectives and a description of proposed works and priorities. In addition to these requirements some conditions require the plans to include information on proposed urban growth and development, an assessment of effects of all new stormwater discharges in the catchment including cumulative effects, education programmes, consultation with key stakeholders and acknowledgement of their views on discharge activities, performance measures and an assessment of the availability of management options.

It is considered that the following principles should be taken into account when considering the scope of a condition of consent for an ICMP or CMP.

#### **5.3.1 ENSURE THE CONSENT CONDITION IS WITHIN A COUNCIL’S POWERS UNDER THE RMA**

Conditions of consent, including those requiring ICMPs and CMPS, must be constructed under the general powers of s108 of the RMA and, where relevant, within the scope of the matters prescribed by the consent activity type as specified in the relevant regional plan.

### **5.3.2 ENSURE THE CONSENT CONDITION RELATES TO A RESOURCE MANAGEMENT PURPOSE**

All conditions of consent, including those requiring the development of ICMPs and CMPs, must relate to either avoiding, remedying or mitigating any adverse environmental effects associated with the activity, or providing information about the effects of the activity. A condition should not be imposed to address an issue unrelated to the proposed activity.

Preferably consent conditions should not be used to rectify an information shortfall that should have been clarified before a decision was made on an application, however often this scenario is unavoidable for network discharge consents. Where ICMPs or CMPs are required as a condition of consent to rectify an information shortfall, it is important that the condition of consent clearly articulates:

- What specific information is required and how this relates to any information shortfall in the initial resource consent application;
- Quantifiable environmental targets and how these relate to the avoidance, remediation or mitigation of effects generated by the proposed activity; and
- Reporting processes, timelines and monitoring procedures.

As noted above, proposed work programmes and priorities, strategic objectives, governance and management responsibilities, design standards and levels of service are generally considered beyond the scope of a consent authority's functions under the RMA in the context of a resource consent process.

### **5.3.3 ENSURE THE SCOPE AND REQUIREMENTS OF THE CONSENT CONDITION RELATE ONLY TO THE CONSENT HOLDER AND THE CONSENT AUTHORITY**

A condition of consent cannot require the agreement or compliance of third parties, or infringe on a third party's legal rights. As such, a consent condition requiring the development of an ICMP or CMP cannot, through the development of that ICMP or CMP enforce requirements on third parties. A common example of this is when an ICMP or CMP developed as a requirement of a condition of consent for a network discharge seeks to require the use of treatment devices on a third parties land to achieve ICMP or CMP objectives. This type of scenario should be avoided as it is considered ultra vires.

## **6 CONCLUSIONS**

ICMPs and CMPs are the outputs from catchment management planning processes that explore how water resources and land uses interact within a catchment. They are a crucial resource management tool that should be utilised and developed accordingly, for four different scenarios:

- 1) To provide technical input to structure plan and plan change processes;
- 2) Where land use activities are currently adversely affecting the catchment;
- 3) To provide technical input for AEEs; and
- 4) As a condition of consent on a resource consent.

However, issues (as discussed above) with current practice suggest that ICMPs and CMPs are not being developed or used to their full potential. At present a vast number of ICMPs and CMPs are being produced at significant cost and effort yet there is a lack of sufficient monitoring to ensure an understanding of whether they are actually delivering the types of outcomes that are expected.

Taking into account the issues and suggestions for improved practice above, the following conclusions are made:

- There is a need for national guidance and consistency for catchment management planning. As discussed above, at present catchment management planning processes are utilised for four distinct purposes.

However, the outputs (being ICMPs and CMPs) are being produced in a confused manner (e.g. ICMPs or CMPs required to support a resource consent are being developed as if they were required to support a structure planning process). This is leading to a number of issues in current practice.

It is considered that the most efficient way of ensuring consistency of development and application is through the provision of national guidance. Such guidance should provide:

- Agreed and consistent use of terminology. There is currently a real lack of consistency of the use of terms for plans to manage catchments and differing uses of the various terms in different regions. All of which leads to inconsistent approaches and confusion.
- Consistent approaches to how ICMPs and CMPs are used based on the purpose of the ICMP or CMP. Before undertaking a catchment management planning process, it is necessary to ensure a good understanding of the drivers (and thus the objectives) for the catchment management planning process.
- Recognition of (including different frameworks to guide) the differences between ICMPs and CMPs associated with plan change processes and ICMPs and CMPs associated with resource consent processes.
- ICMPs and CMPs should not be seen as or accepted as a substitute for an AEE as required under Schedule 4 of the RMA.

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