

IN THE MATTER OF

A HEARING OF THE BOARD OF INQUIRY

INTO

**THE PROPOSED NATIONAL POLICY
STATEMENT FOR FRESHWATER
MANAGEMENT**

**STATEMENT OF EVIDENCE ON BEHALF OF THE MANUKAU CITY
COUNCIL
BY COUNCILLORS SHARON STEWART AND ANNE CANDY**

1. Introduction

My name is Sharon Stewart QSM, and I am a Councillor from Manukau City Council. I have been a Councillor for 10 years, and am currently Portfolio Leader of Environment. I have been a member of the Environmental Hearings Committee for three terms, and I am a certified holder of "Making Good Decisions RMA" which is valid until 30 June 2013.

Kia ora, I am Councillor Anne Candy, QSO, and I am a former Deputy Mayor and current Chair of Council's Environmental Hearings Committee. I will be presenting evidence on key aspects of Council's submission relating particularly to Iwi and Hapu roles and Tangata Whenua Values.

Two Council officers are also attending the Hearing. These are Mohammed Hassan, Group Manager, Environmental Sustainability and Infrastructure and Pat Holm, Senior Policy Analyst.

Manukau City is the third largest city in New Zealand with a population of 329,000 at the last census, and is growing by approximately 9,000 people a year. Manukau City occupies a strategic position in the Auckland isthmus, and has a particular interest in the management of freshwater as being of vital importance for environmental, cultural, economic and social wellbeing of all New Zealanders.

The Council notes that the Board of Inquiry will have read each submission and any expert evidence and rebuttal prior to this Hearing. It is therefore proposed to provide a brief overview of some key issues, mostly from the perspective of the Council's role as a regulator, with the

responsibility for implementing the Proposed National Policy Statement on Freshwater Management (Proposed NPS).

2. Structure of Presentation

The presentation will focus on four key issues, and is structured as follows:

2.1 National Context and Implementation:

It is suggested in Council's submission that the addition of an overarching issue or objective could be helpful to establish a national context for implementation, supported by a hierarchy of clearly written objectives and policies. An example could be:

"To recognise and protect the national values of freshwater resources through an integrated management approach."

The identification of such values would be helpful to establish priorities, develop a hierarchy of receiving environments and to implement appropriate policy and regulatory mechanisms which reflect their different functions.

It would also improve the balance between the need to improve national consistency and provide enough flexibility for specific consideration of particular areas or sites.

2.2 Lack of Clarity of Objectives and Policies

The objectives and policies establish blanket mandatory obligations and timeframes for local authorities to implement the Proposed NPS. Some objectives and policies introduce new terminology which will create uncertainty and inconsistencies, at least while practice and case law is being developed. This problem will affect the mandate of local authorities to develop consistent policies, impose appropriate conditions of consent and ensure compliance. Examples of the lack of clarity are set out below.

Objective 1

Objective 1 closely follows the wording of section 5(2) of the Resource Management Act 1991, (RMA) and therefore may not be necessary.

Objective 3

This objective requires the progressive enhancement of the overall quality of freshwater, including actions *"to ensure appropriate Freshwater Resources can reach or exceed a swimmable standard."*

The use of words “*appropriate*” and “*can*” introduces uncertainty, because no guidance is provided as to how these words are to be applied, and what would be considered an acceptable level of improvement. This is an important issue, because it would be unrealistic to expect many sensitive marine environments, especially in urban areas, to achieve a standard which would be suitable for swimming at all times.

Objective 5

While the Council supports the general intent of the objective, it notes that it will be difficult to avoid further degradation of freshwater resources in some receiving environments. The term “*degradation*” should be clarified – for example, it could relate to possible adverse effects from recreational uses or contaminants from adjacent land uses. Also, it is unclear as to when the term “*further*” would apply. Ongoing research, monitoring and compliance programmes would be required to establish environmental bottom lines and ensure that the receiving environments are not further degraded.

Objective 6

This objective refers to social, economic and cultural demands for freshwater. It is unclear what the word “*demand*” would mean in a cultural context, and the word “*wellbeing*” may be more appropriate.

The Council does support the need for infrastructure to be of a sufficient capacity to serve the needs of existing and future generations.

Objective 7

It is not clear whether the word “*allocated*” refers to existing allocations or both existing and new allocations of freshwater, but the Council supports the efficient use of freshwater resources and the need to avoid over allocation.

Objective 8

The meaning of the terms “*involved*”, “*identified*” and “*reflected*” in relation to iwi and hapu responsibilities for the management of freshwater is unclear. As a starting point, the objective should be consistent with sections 6, 7 and 8 of the RMA.

Policy 1

The repeated use of the term “*guide and direct*” throughout Policy 1 instead of standard RMA wording such as “*give effect to*” is likely to create uncertainty for local authorities as to whether a different level of compliance will be required between the Act and the Proposed NPS.

2.3 Implementation Costs

Policies 2, 3 and Section 32 Report

In its submission, the Council noted that there is insufficient economic or financial analysis of the impacts on councils and communities for implementing the Proposed NPS. Regional and city and district councils will be required to undertake significant research before Plan Changes can be introduced, and there will be ongoing regulatory, compliance and monitoring costs. Arbitrary timeframes are imposed regardless of any other priorities local authorities may have, or the availability of specialist expertise and resources.

It is of concern that the section 32 report notes in section 5.5 that *“The high level and national focus of the Proposed NPS makes the quantification of costs and benefits in dollar terms extremely difficult.”* This matter is addressed more fully in the Council’s submission.

2.4 Mana Whenua Issues

Policies 4 and 5

Key ongoing issues for Mana Whenua are declining water quality and increasing demands for freshwater.

It is noted that Policies 4 and 5 of the Proposed NPS list matters which every regional and district council *“must consider”* when preparing regional and district planning documents to give effect to policies 1 to 3, including Tangata Whenua Values and Interests.

Section 62 of the RMA 1991 requires regional policy statements to state – *“the resource management issues of significance to-*

(i) iwi authorities in the region;”

Section 66(2A) states that a regional council, when preparing or changing a regional plan, must-

“(a) take into account any relevant planning document recognised by an iwi authority and lodged with the council, to the extent that its content has a bearing on resource management issues of the region...”

The Council also notes that under section 74 (2A)a) a territorial authority, when preparing or changing a district plan –

“must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority , to the extent that its content has a bearing on resource management issues of the district...”

The Proposed NPS must be consistent with the requirements of the RMA 1991. The use of the term “*must consider*” in the Proposed NPS will create uncertainty and needs clarification.

Where there are objectives and policies concerning Tangata Whenua in Iwi Management Plans and any Treaty of Waitangi Tribunal Findings, these need to be recognised in accordance with the RMA.

The need to identify Tangata Whenua Values and Interests in respect of all fresh water resources in each region is supported, (policy 1), but there will be a need to provide Iwi and hapu groups with sufficient support and resources to enable them to provide timely information and advice, and fulfil their responsibilities for freshwater management.

3. Summary

In summary, the Council considers that the framework of the Proposed NPS would be improved by the addition of at least one national principle or objective to establish priorities to improve consistency and provide guidance on the interpretation of objectives and policies.

There is a need to ensure that the terminology of the proposed objectives and policies are clear and consistent with the provisions of the RMA.

The Proposed NPS should clarify the appropriate allocation of responsibilities for giving effect to various objectives and policies in a manner which is consistent with the RMA.

Further, funding and resources (including specialist advice) should be provided to local authorities and Mana Whenua, to help offset the cost of preparation and implementation of the new planning documents.