

FORM 3

Submission on Proposal for National Policy Statement for Freshwater Management

Section 49 of the Resource Management Act 1991.

To: The Chairperson
Board of Inquiry – Water
c/o freshwatermps@mfe.govt.nz

This is a submission on the following proposed national policy statement (the proposal):

Proposed national policy statement for freshwater management.

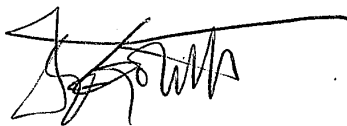
The specific provisions of the proposal that my submission relates to are:

Objectives: 2, 3 and 5

Policies: 1, 2, 3, 4, and 5

My submission and the changes I am seeking are attached the following pages.

I wish to be heard in support of my submission. If others make a similar submission, I will consider presenting a joint case with them at a hearing.



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Signature of submitter

23 January 2009

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Date

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Submission on draft NPS on Freshwater Resources

1. Introduction

- 1.1 Metrowater owns and operates the water supply and wastewater network in Auckland City. Accordingly, Metrowater has a significant interest in the management of freshwater resources. This is important to ensure there are adequate water supplies available for the long-term supply of water for domestic and municipal needs for the residents of Auckland City as well as for commercial and industrial customers. Metrowater purchases bulk water from Watercare, the bulk water supplier for the Auckland Region.
- 1.2 Metrowater also manages the stormwater network on behalf of Auckland City Council. The stormwater network is made up of formal and informal overland flow paths, watercourses and a piped network designed to direct stormwater away from homes, businesses and roads to prevent flooding. Urban streams play an important role in the management of stormwater in Auckland City. These watercourses are used to convey stormwater to the final discharge point (typically into the marine environment). The discharge of stormwater into urban watercourses has an impact on the quality of water in the receiving watercourse. Metrowater and Auckland City are working to manage stormwater to minimise the impact on the City's urban watercourses.
- 1.3 Metrowater supports the overall purpose of the draft NPS on Freshwater Resources. Maintaining and improving freshwater resources is essential for the long-term well being of the community and the natural environment. We support the need for greater direction from the Government regarding the protection and management of Freshwater Resources. However, we have significant concerns about the proposed NPS on Freshwater Resources as currently drafted.
- 1.4 This submission outlines our main concerns on the draft NPS. As the water, wastewater, and stormwater service provider for Auckland City, Metrowater operates in a fully established built urban environment. Our submission reflects the implications of the policy on our operations within an established urban setting.
- 1.5 Our submission is structured as follows:
 - Section 2 sets out several general comments that relate to our overall submission
 - Section 3 provides comments on the objectives and specifies the outcome we seek
 - Section 4 provides comments on the policies and the outcomes that we seek. We have structured our comments on the policies around six key themes that are addressed in the policies.
 - Section 5 concludes our comments.

2. General Comments

Managing Freshwater Resources in an Urban Environment

- 2.1 Urban streams and other water bodies are important features of the urban environment, contributing to landscape and amenity values, supporting

freshwater ecosystems, and providing for the conveyance of urban stormwater. To a certain extent, the values and uses applicable to an urban watercourse are in conflict. In an urban area, the volume of stormwater runoff derived from hard (impervious) surfaces is much greater than in other areas. This inevitably leads to the modification of stream channels through either accelerated erosion (leading to more stable and hydraulically efficient stream channels) or through the introduction of hard structures to minimise erosion and facilitate stormwater conveyance. While such effects can be minimised in new urban areas through techniques such as Low Impact Urban Design, existing urban areas such as Auckland City are already developed and already have piped and highly modified stream channels.

- 2.2 Hydraulic effects have a significant impact on the habitat of freshwater ecosystems. The modification of stream channels and banks to a more hydraulically efficient form reduces stream channel heterogeneity and limits available habitat. This generally leads to a loss of sensitive aquatic species and diversity. Auckland Regional Council has undertaken research which indicates that these effects occur in urban areas where the level of impervious surface in contributing catchments exceeds approximately 25 percent. Within Auckland City, catchment imperviousness ranges from 35 to 75 percent. This means that unless actions are taken to significantly reduce the level of impervious surface in Auckland (which is difficult in an existing built environment), urban streams will continue to be affected.
- 2.3 In addition to hydraulic effects, urban stormwater also inevitably carries contaminants that are derived from roads, buildings, and other areas. Once these contaminants are dissolved or entrained in stormwater, it is very difficult and expensive to remove them. While new development can be (and often is) designed to minimise the generation of contaminants, most existing industrial, commercial and residential development has not been designed with this in mind. Non-point source stormwater run-off from reserves and other areas also contributes contaminants (particularly microbiological) to our watercourses.
- 2.4 In this context, we submit that the NPS should recognise and provide for the challenges of managing Freshwater Resources in an urban environment. In an urban environment, the needs and values of the natural environment must necessarily be balanced with the community's health and well-being and with the need for economic development. For example Objective 3 of the NPS seeks "the progressive enhancement of the overall quality of Freshwater Resources". This is a laudable goal and may be achievable in many circumstances. However, in an existing urban environment, it may be more appropriate to strive to maintain the existing quality (or even to minimise further degradation) in instances where there is additional development and land intensification (even if best practice stormwater management practices are adopted).
- 2.5 To achieve this, we are of the view that the NPS should recognise that there are different types of water resources with different uses and values that are subject to different pressures and constraints. The focus of the NPS should be on establishing management objectives and strategies for the specific issues facing a particular freshwater body, rather than promulgating a blanket approach that must be applied equally to all water bodies. For example, in some instances an appropriate management strategy may be to establish a numeric water quality standard or a flow management regime. However, the

NPS should recognise that other management strategies could be used to achieve the desired results. These strategies may include the adoption of the best practicable option (BPO) to minimise the adverse effects from the discharge of contaminants.

Approach and Structure of the NPS

- 2.6 It is widely recognised that Freshwater Resources need to be managed sustainably. However, this means balancing the range of ecological, economic, social and cultural values associated with these Freshwater Resources. In our view the purpose of a NPS is to provide direction on balancing these values and on making choices between competing values, particularly where Freshwater Resources are scarce. This direction should come from the central government.
- 2.7 However, as drafted, the NPS does not provide direction on national priorities for Freshwater Management nor provide adequate guidance on making the difficult choices between competing values. It also does not recognise that managing Freshwater Resources requires a range of policy and regulatory instruments at all levels of government. Rather, the NPS is largely focused on process, and on directing actions at the regional and local levels. The end result is a draft NPS which is largely prescriptive and focused on administrative requirements, while adding little tangible direction for sustainable Freshwater Resource Management. As drafted, the NPS is a missed opportunity to provide extremely important national direction to the management of one of the country's most important natural resources.
- 2.8 Because the NPS is focused on process, the policies are structured around what must be included in a Regional Policy Statement, Regional Plan and District Plan rather than on the outcomes the NPS is trying to achieve. In our view, this leads to a NPS that is not coherent, is difficult to understand, and has gaps in the framework it sets out for achieving the stated objectives. The NPS should be amended to focus on the key outcomes (e.g., the adoption of water quality standards) with the actions required at the central, regional, and local levels set out within the NPS accordingly. For this reason, we have structured our comments on the policies by outcomes or key themes that are addressed in the policy statement.

3. Comments on Objectives

This section provides our comments on selected objectives in the draft NPS.

3.1 Objectives 2 and 5

Objective 2 – Ensuring integrated management of effects on fresh water
To ensure effective integrated management (including by the co-ordination and sequencing of Land-use Development with investment in infrastructure for supply, storage and distribution of fresh water) of the effects of land-use Development and discharges of contaminants on the quality and available quantity of fresh water.
Objective 5 – Addressing freshwater degradation
To control the effects of Land-use Development and discharges of contaminants to avoid further degradation of Freshwater Resources.

Comments:

- 3.1.1 Metrowater supports the concept of integrated land use development and water quality management, particularly in greenfields areas. However, we are concerned about Objectives 2 and 5 and how they relate to integrated land use management and how NPS directs regional and territorial authorities to achieve integrated management.
- 3.1.2 Objective 2 seeks to ensure the integrated management of the effects on freshwater. The objective specifically refers to the infrastructure for supply, storage and distribution of fresh water. Water supply infrastructure should not be singled out in the policy because the infrastructure required to support land use development is not limited to water supply matters. The provision of infrastructure (public or private) for the management of stormwater and wastewater is equally if not more important to avoid or minimise adverse effects on freshwater resources, as is the management of other types of supporting infrastructure (such as roads).
- 3.1.3 Objective 2 is focused on the integrated management of the effects of land use development and discharge of contaminants. We support the integrated management of land use development, but consider that the wording of this objective could be improved through redrafting. It would also be better to include the detailed matters, such as the co-ordination of development of supporting infrastructure and the management of discharges, in a policy that would give effect to the objective.
- 3.1.4 Objective 5 seeks to “address” freshwater degradation. However, the objective is focused solely on controlling adverse effects of land use development to avoid further degradation rather than on addressing any existing degradation that may be present. This raises two key points:
- First, the objective is absolute – that is, it requires that effect be controlled such that further degradation is “avoided”. This is not always practicable in the case of new development, particularly in existing urban areas. New development will inevitably change local hydrology and introduce new sources of contaminants (for example from roofing materials, roads, motor vehicles, household/commercial chemicals) that will have some effect on freshwater resources. The extent to which the development will affect natural resources is a matter that must be considered in determining the appropriateness of the development. The sustainable management purpose of the Resource Management Act (RMA) provides for the circumstances where some degradation, after mitigation, may be considered acceptable if a development provides for the social and economic well being of the community.
 - Second, the objective does not specifically provide for the circumstances where re-development may provide an opportunity to remedy (to some extent) the adverse effects of historical land use on freshwater resources. While we recognise that the overall objective of improving the quality of freshwater resources is provided for in Objective 3, there is an opportunity to encourage sustainable land-use development. This is particularly relevant in a fully developed urban area such as Auckland.

Outcome Sought:

- 3.1.5 Revise Objective 2 as follows: “To ensure the integrated management of land use development and associated adverse effects on the quality and quantity of freshwater resources”.
- 3.1.6 Move the reference to the need to sequence infrastructure associated with land development in Objective 2 from the objective to the policy(ies) that give effect to this objective. In addition, we suggest amending the reference to infrastructure “for supply, storage, and distribution of freshwater” to include all infrastructure that affects land use development (e.g. stormwater and roads).
- 3.1.7 Revise Objective 5 to make it consistent with the RMA, and remove the “absolute” nature of the objective such that it recognises that new land use development will unavoidably led to some degradation of freshwater resources.

3.2 Objective 3

Objective 3 – Improving the quality of fresh water

To ensure the progressive enhancement of the overall quality of Freshwater Resources, including actions to ensure appropriate Freshwater Resources can reach or exceed a swimmable standard.
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Comments:

- 3.2.1 While Metrowater supports the general objective to progressively enhance the overall quality of Freshwater Resources, this objective does not recognise the challenges associated with managing water resources in an urban environment, particularly those that are used for stormwater conveyance. In most areas, urban streams are part of the drainage network and have a vital role to play in reducing urban flooding. Where the water quality of a stream is already degraded in a built environment and the land use is unlikely to change, the preferred management strategy may be to maintain the existing quality of water or to minimise further degradation rather than devoting scare resources on improving water quality. Regional councils and territorial authorities must have the flexibility to prioritise improvements in water bodies.
- 3.2.2 The objective requires actions to be taken to ensure that appropriate Freshwater Resources can reach or exceed swimmable standard. There is no guidance as to what are “appropriate” Freshwater Resources, nor what is meant by “swimmable standard”. Monitoring undertaken by Auckland City and Metrowater indicates that in an intensively developed urban environment, it is unlikely that any Freshwater Resource will be able to meet current microbiological water quality guidelines for recreational water use due to the prevalence of sources such as birds and domestic pets.

Outcome Sought:

- 3.2.3 Revise the NPS to recognise that an important use of a Freshwater Resource may be for stormwater conveyance and the objective may be to maintain water quality rather than enhance water quality.

- 3.2.4 Delete the word “ensure” so as to recognise that it may not be possible to achieve the agreed water quality objective (e.g. swimmability) at all times, especially after significant storm events in urban areas.
- 3.2.5 Delete reference to “swimmability” and replace it with reference to maintain or progressively improve water quality to achieve the desired water quality outcome (see the discussion on Freshwater Quality Standards).
- 3.2.6 An example of a possible amendment to this objective is: “To maintain or progressively enhance the overall quality of Freshwater Resources to reach or exceed the water quality outcome established for a given Freshwater Resource.”

3.3 Objective 4

<p>Objective 4 – Recognising and protecting life supporting capacity and ecological values</p>

<p>To ensure the life supporting capacity and ecological values of Freshwater Resources are recognised and protected from inappropriate –</p>

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|---|
| <ul style="list-style-type: none"> (a) taking, use, and damming or diverting of fresh water; and (b) Land-use Development; and (c) Discharges of contaminants. |
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Comments:

3.3.1 This objective does not recognise that some Freshwater Resources may be valued for a consequential use or function as well as (or more than) their life supporting or ecological value. This is the case for urban streams that are used for stormwater conveyance. This objective should recognise that Freshwater Resources may have different uses. In addition, it is unclear why this objective only singles out life supporting and ecological values as it would seem that all values (including stormwater conveyance) should be protected from inappropriate activities.

Outcome Sought:

3.3.2 This objective should be amended to recognise that some Freshwater Resources may have uses that are incompatible with ensuring that the ecological values are protected.

4. Comments on Policies (by Theme)

We have organised our comments on the policies around six major themes addressed in the policies. These are:

- Freshwater Quality Standards
- Environmental Flows and Levels
- Notable Values
- Land-use Development
- Demand for Freshwater
- Iwi and Hapu Role.

The main policy provisions for each of the themes are given for reference in a table at the beginning of each section. (The general Policies such as Policy 4 that require

the specific theme to be given consideration are not included in the table.) Where applicable, the relevant definition is also included as a reference.

4.1 Freshwater Quality Standards

NPS provisions:

Regional Policy Statement	Regional Plans	District Plans
<p>Policy 1 (a) Determine timetables and priorities for when regional plans will set Freshwater Quality Standards and Environmental Flows and Levels for all Water Resources of the region</p>	<p>Policy 2 (a) By the date or dates specified in the regional policy statement, notify a proposed regional plan, change or variation, to set Freshwater Quality Standards and Environmental Flows and Levels for the Outstanding, Degraded and other Freshwater Resources of the region to give effect to the regional policy statement in relation to the matters in Policies 1(a) to (c); and</p>	<p>None</p>

Definition: “Freshwater Quality Standard” means a regional rule on freshwater quality which gives effect to this National Policy Statement

Comments:

- 4.1.1 The NPS requires that regional councils set Freshwater Quality Standards, but is not clear on what is meant by “standard”. The definition of “Freshwater Quality Standard” does not provide any useful guidance on what is intended, and leaves it open for each Regional Council to establish a rule. A standard can be focused on the water quality at a specific discharge point (“discharge standard”), the overall water quality of a water body (“ambient-based standard”), or some other requirement.
- 4.1.2 It would appear that the intent of the NPS is to require *ambient-based standards* be set for Freshwater Resources. The objective of these standards would be to define the water quality outcomes that would be expected to be maintained or achieved for any given Freshwater Resource.¹ Discharges from point and non-point sources would need to be managed so they do not exceed the required water quality outcomes or standards that have been agreed for the water body after reasonable mixing.
- 4.1.3 In principle, Metrowater would support this approach to water quality management, provided that it allows the appropriate standard be set for each Freshwater Resource. By this we mean that the values, uses, and pressures on a particular resource are assessed and a management strategy developed accordingly. In some instances, this may be achieved by setting an ambient water quality standard. However, in other circumstances, it may be setting out processes or priorities for further action.
- 4.1.4 The key point we wish to emphasise is that the “standards” – whether they be numeric, process-based, or based on the BPO – must be specific to a particular water body and not generic. This is essential to ensure the relevance of any standards that are established.

¹ This is the type of management strategy that is set out in the Australian and New Zealand Environmental and Conservation Council’s Guidelines for Marine and Freshwater.

4.1.5 Because using an ambient-based standards approach to managing water quality represents a significant shift in the water quality management paradigm applied in many parts of the country, we believe that it would be more appropriate for the central government to set out the framework for setting the standards. The regional council should then be given the mandate to determine the “standard” or outcome for each water body based on the framework set out at the central level. It should not be left to each regional council to set the standard as a rule in the Regional Plan as is currently provided in the draft NPS (Policy 2).

4.1.6 Under this approach, we recommend that the standard setting framework:

- Recognise the differences between urban and non urban water bodies;
- Allow standards to be set based on the different types of water bodies and the (current or potential) use(s) of a water body. In Auckland, for example, many urban streams are used for stormwater conveyance. By virtue of this use, they have and will continue to experience some or significant degradation and should not be expected to reach the same level of water quality that would be required for a water body used for public recreation or drinking water or that would be found in a rural or wilderness environment (e.g., a natural environment);
- Enable standards based on desired outcomes rather than on numerical values;
- Require regional councils to set water quality standards for individual water bodies, based on a methodology established by the central government.

4.1.7 Metrowater opposes any requirement to set discharge standards on stormwater due to the variability in water quality, the limited ability to control third party actions in respect of discharges to the stormwater system and the significant contribution of diffuse stormwater runoff. The RMA (s70) allows for the adoption of the Best Practicable Option (BPO) approach for preventing or minimising the adverse effect on the environment as an alternative to the adoption of a rule that sets a minimum quality standard. In the Auckland Region, the BPO has been adopted as the preferred approach for managing contaminant discharges from the drainage network because it focuses on implementing the best method of achieving identified outcomes (having established these outcomes in the context of what is practically achievable and reasonably affordable).

Outcome Sought:

4.1.8 Amend the definition of Freshwater Quality Standards to define the standards as ambient-based standards that are based on the Freshwater Resource values and existing or potential use.

4.1.9 Insert a new policy in the NPS that sets out all provisions related to Freshwater Quality Standards.

4.1.10 Refocus the NPS to direct the Government to develop a National Environmental Standard that sets out the framework for standard setting but allows regional and territorial authorities to establish an appropriate standard for individual Freshwater Resources. We suggest this framework:

- Allow standards to be set on the basis of the type of waterbody, the values associated with the waterbody, and its current or potential use;
- Provide direction on the specification of values and uses;
- Allow Regional and Territorial Authorities to prioritise water bodies to ensure that emphasis is given to those bodies with high values or protection requirements (e.g., to maintain water quality for drinking water purposes); and
- Allow the standards to be established as desired outcomes such as to maintain or enhance water quality to enable contact recreation or for drinking water purposes.

4.1.11 Integrate Policy 1(a) and Policy 2(a) into the new policy on Freshwater Quality Standards to reflect the role of the Regional Councils to establish the Freshwater Quality Standards based on the national guidelines.

4.2 Environmental Flows and Levels

NPS Provisions:

Regional Policy Statement	Regional Plans	District Plans
Policy 1 (a) Determine timetables and priorities for when regional plans will set Freshwater Quality Standards and Environmental Flows and Levels for all Water Resources of the region	Policy 2 (a) By the date of dates specified in the regional policy statement, notify a proposed regional plan, change or variation, to set Freshwater Quality Standards and Environmental Flows and Levels for the Outstanding, Degraded and other Freshwater Resources of the region to give effect to the regional policy statement in relation to the matters in Policies 1(a) to (c); and	None

Comments:

- 4.2.1 Metrowater generally supports the requirement for setting Environmental Flows and Levels for water bodies that are used for consumptive uses. However, the policy lacks clarity in several important areas.
- 4.2.2 The relationship between the proposed National Environmental Standard (NES) on Ecological Flows and the NPS on Freshwater Resources needs to be clarified in the NPS. In particular, the distinction between “environmental flows” and “ecological flows” should be specified in the draft NPS. Information from MfE for the Proposed National Standard on Ecological Flows and Water Levels states that “ecological” flows are considered a subset of “environmental flows”, and that the term “environmental flows” encompasses ecological flows (i.e. those that are required to provide for the ecological function of the flora and fauna present within a water body) as well as the flows required for other values associated with water use. These include tangata whenua, cultural, amenity, recreational, landscape, and natural character values. The definition should be amended to provide greater clarity on what “environmental flows” means. The policy should refer to the NES on Ecological Flows as that sets out a “standard” that must be used as part of the process for setting the “environmental flows” for a particular water body.
- 4.2.3 Policy 1(a) requires that Environmental Flows be set for “all Water Resources in the region”. This is in turn supported by Policy 2(a) which requires that Environmental Flows be set for the “Outstanding, Degraded and other

Freshwater Resources in the region.” We presume that the term “all” in Policy 1(a) equates to the “Outstanding, Degraded and other” Freshwater resources; however, consistent terminology must be used for the avoidance of doubt.

4.2.4 Greater clarity is required as to whether in fact the NPS requires the environmental flows be set for all Freshwater Resources or only for those that are used for consumptive purposes. Policies 1 and 2 effectively refer to “all” resources, which would imply that they must be set for all water resources in the region regardless of size, ownership, or use. However, the definition of “Environmental Flows and Water Levels” appears to be focused on preventing the allocation of water for consumption use at a level that adversely affects the water requirements for sustaining other values. We would strongly suggest that the emphasis be given to setting Environmental Flows and Water Levels for water resources that are used for consumptive purposes only, or at a minimum, prioritise those water resources and provide for levels to be set for water bodies without consumptive uses at a later date.

Outcome Sought:

4.2.5 Reword Policy 1(a) to include reference to the proposed National Environmental Standard on Environmental Flows and Water Levels and integrated into a new policy focused on Environmental Flows.

4.2.6 Reword Policy 1(a) by changing “all” (related to setting Environmental Flows) to “all Freshwater Resources that are used for consumptive purposes” and integrated into the new Policy – Environmental Flows.

4.2.7 Similarly, reword Policy 2(a) to require Environmental Flows to be set only for Freshwater Resources that are used for consumptive purposes.

4.3 Notable Values

NPS Provisions:

Regional Policy Statement	Regional Plans	District Plans
<p>Policy 1 (b) Identify Notable Values (including potential values) of – (i) Any Outstanding Freshwater Resources; and (ii) Any Degraded Freshwater Resources; and (c) Guide and direct the setting in regional plans for all Freshwater Resources of the region of (i) Freshwater Quality Standards (ii) Environmental Flows and Levels Including for the protection of Notable Values of any Outstanding Freshwater Resources and the enhancement and restoration of Notable Values of any Degraded Freshwater Resources; and (g) Guide and direct regional plans (...) to restrict existing takes, uses, damming and diversion of fresh water in order to sustain Notable Values....in times of low flows</p>	<p>None</p>	<p>None</p>

Definition: “Degraded Freshwater Resources” means those Freshwater Resources of a region whose Notable Values have been so degraded by inappropriate Land-use

Development, discharges of contaminants and/or the taking, use, damming or diverting of fresh water as to require that priority be given to enhancement or restoration in order achieve the purpose of the Act.

Comments:

4.3.1 Metrowater supports the idea of identifying the values of different water bodies as part of a management approach that reflects the values and uses (current and potential) of each water body. However, clarification of the policies related to this requirement (Policy 1(b)) is needed for the reasons set out below.

4.3.2 The framework or methodology for establishing ambient-based standards (Freshwater Quality Standards - see section 4.1 for a discussion of ambient standards) would most likely include a process for:

- Identifying the range of values for each water resource;
- Identifying the designated use (current or potential); and
- Setting the standards or desired environmental outcomes accordingly.

The process of identify the Notable Values and whether a resource is an Outstanding Freshwater Resource or a Degraded Freshwater Resource would be inherent in this process. Therefore, Policy 1(b) would be redundant as the identification of values would be done as part of the standard setting process. Likewise, as part of the standard setting process, a Freshwater Resource should be identified as Outstanding or Degraded so that an appropriate management strategy can be developed.

4.3.3 The Policy (1(b)) requires the identification of the Notable Values of “any Outstanding Freshwater Resource” or “any Degraded Freshwater Resources”. The definition of “Degraded Freshwater Resources” states that these Resources are those that are “so degraded”, implying a very significant level of degradation. It seems that the intent of the policy is to identify only the Resources that fall at either end of the spectrum – as outstanding and thereby requiring special protection, or extremely degraded as to require immediate attention. We would agree that it is important to prioritise Freshwater Resources for action, but would consider it important to progressively work to identify the values of all waterbodies so that appropriate management strategies can be developed.

4.3.4 As previously stated, in an urban environment most urban streams will experience some degree of degradation due to stormwater run-off. Stormwater accumulates contaminants from roads, roofs, and the flow effects from impervious surfaces. This run-off affects the water quality in urban streams. Even where it is possible to improve the water quality through appropriate source control measures and other types of treatment devices, a stream’s ecology can be adversely affected by the quantity of stormwater entering the stream. The water flows can be highly variable depending on the level of rainfall, which can affect the hydrology of the stream and its ability to support stream ecology. Accordingly, some streams may be considered “so degraded” as to trigger the actions required in the policy. However, this may be at odds with a stream’s function for conveying stormwater. This function is critical for the community, and for reducing flooding. The policy should recognise this potential conflict and provide clear guidance or a robust framework for regional councils and territorial authorities to address this.

4.3.5 The policy requires that the regional plans provide guidance and direction to sustain the Notable Values in times of low flows. The policy, however, fails to recognise that there may be trade-offs between values, and it would be more appropriate to direct regional councils to establish priorities for which values take priority when there is a conflict for a given water resource.

4.3.6 Finally, the policies and the definitions related to Degraded Resources appear to create a circular logic. Policy 1(b) requires the Regional Council to identify the Notable Values of any Degraded Freshwater Resource, but “Degraded Freshwater Resources” are defined as ones in which the Notable Values have been degraded.

Outcome Sought:

4.3.7 Delete the policies related to setting Notable Values, and incorporate a process for establishing the values for Freshwater Resources into the process for setting ambient-based water quality standards.

4.4 Land-use Development

NPS Provisions:

Regional Policy Statement	Regional Plans	District Plans
<p>Policy 1 (h) Guide and direct regional and district plans (...) to effectively manage Land-use Development and discharges of contaminants to control the adverse effects of the discharge of contaminants into fresh water or onto or into land in circumstances where contaminants may enter fresh water; and (j) Guide and direct regional and district plans (...) to ensure integrated management of the effects of Land-use Development – (i) by encouraging co-ordination and sequencing of infrastructure for supply, storage and distribution of fresh water; and (ii) by controlling adverse effects (including associated discharges of contaminants) on the quality and available quantity of Freshwater Resources.</p>	<p>Policy 2 (c) ...every regional council must notify a proposed regional plan, change or variation to include rules to achieve the following: (iii) Require all discharge permits affecting Freshwater Resources...include conditions for – (C) Integrated management of the effects of Land-use Development and discharges of contaminants on the quality and available quantity of Freshwater Resources</p>	<p>Policy 3 ...every territorial authority must notify a proposed district plan, change or variation... (a) Gives effect to the regional policy statement (b) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions for – (iii) Integrated management of the effects of Land-use Development and discharge of contaminants on the quality and availability of Freshwater Resources</p> <p>Policy 5 When preparing a district plan..., every territorial authority must consider the following: (a) The importance of controlling Land-use Development in a way and at a rate that minimises the adverse effects on the quality and available quantity of Freshwater Resources (b) The importance of ensuring that the planning for and implementation of Land-use Development applies industry good practices in order to – (i) Minimise the adverse effects on the quality and available quantity of Freshwater Resources;</p>

Comments:

4.4.1 As discussed in our comments on Objectives 2 and 5, Metrowater supports the concept of integrated land use development and water management, although we note that integrated management is not something that is easily achieved given the competing pressures and demands on Freshwater Resources. However, we have a number of overall concerns that follow through from the objectives into the Policies. The key policies that seek to achieve the objectives are Policies 2, 3 and 5. These policies direct regional councils and territorial authorities to undertake a range of activities to achieve integrated management of the effects of land use development.

4.4.2 Section 2.2.2 (District Plans) of the Section 32 evaluation supports the NPS comments that land use planning and freshwater management have not been well integrated. The s32 evaluation indicates that RMA s31 does not identify water management as a function of territorial authorities. At the same time, the s32 evaluation does not appear to recognise that the management of effects on water quality and quantity are clearly a function of regional councils pursuant to RMA s30. This section states:

S 30: Functions of Regional Councils

The control of the use land for the purpose of—

S 30: Functions of Regional Councils:

(c) The control of the use of land for the purposes of---

- (i) Soil conservation*
- (ii) The maintenance and enhancement of the quality of water in water bodies and coastal waters*
- (iii) The maintenance of the quantity of water in water bodies and coastal water*
- (iiia) The maintenance and enhancement of ecosystems in water bodies and coastal water*

and

(f) The control of discharges of contaminants of ecosystems in water bodies and coastal waters.

4.4.3 Metrowater considers that one of the reasons for a lack of integrated land use planning and subsequent effects is this division of responsibility for land use management between regional councils and territorial authorities. In the Auckland Region, the regional council has tended to manage the adverse effects on water bodies through discharge resource consents. This results in an approach that tends to be more “after the fact”, emphasising management techniques that mitigate or remedy adverse effects (such as through water treatment) rather than those that prevent adverse effects (such as sustainable urban design).

4.4.4 For this reason, we find the approach proposed in the NPS to be confusing. Specifically, the NPS limits the role of regional councils in the integrated management of the effects of land use development to conditions on discharge permits (Policy 2(c)(iii)(C)). In contrast, territorial authorities are required to include rules in district plans to impose conditions to:

- Protect against the degradation of freshwater quality (including managing activities that give rise to stormwater);
- Ensure the sustainable management of demands on freshwater; and
- Require the integrated management of the effects of discharges of contaminants on freshwater resources.

4.4.5 It is our view that the NPS is seeking to direct territorial authorities to implement district plan provisions for matters which they have no jurisdiction under the RMA, and which are clearly the functions of regional councils. A potentially better way to address this is to combine all aspects of land management (including effects on water resources) into the functional responsibility of one agency. However, the NPS is not the appropriate vehicle for this type of change. Instead, a legislative change would be a more appropriate method to combine these functions.

4.4.6 In this regard, we disagree with the Section 32 evaluation which indicates that legislative changes are not appropriate due to the level of details and direction required. The s32 evaluation also seems to consider legislative changes as an alternative to an NPS. This is not the case. Both are important (and complementary) mechanisms that have a place in improving the management of Freshwater Resources.

4.4.7 In our opinion, the RMA should be amended to make all aspects of land management a function of territorial authorities. This would enable more integrated and sustainable land use planning that focuses on avoiding adverse effects on water resources at the development stage.

Outcome Sought:

4.4.8 Redraft the NPS to require amendments to Section 30 and 31 of the RMA to give territorial authorities the legislative mandate to manage all aspects of land use development. Policies 1 and 2 would need to be amended to reflect this legislative change.

4.5 Demand for Fresh Water

NPS Provisions:

Regional Policy Statement	Regional Plans	District Plans
<p>Policy 1</p> <p>(i) Guide and direct regional and district plans (...) to manage demands for fresh water, including demands arising from Land-use Development and discharges of contaminants, in a manner which –</p> <p>(i) Provides certainly to communities and water users (including as appropriate through prioritisation of allocation for takes of fresh water reasonably foreseeable Consumptive Use)</p> <p>(ii) Provides priority for reasonably foreseeable domestic water supply, over other competing demands, provided that appropriate</p>	<p>Policy 2</p> <p>(c) ...every regional council must notify a proposed regional plan...to achieve the following:</p> <p>(i) Require that all water permits for the Consumptive Use of fresh water...include conditions for the efficient Consumptive Use of fresh water including, at a minimum, providing for the use of industry good practice and technology to achieve efficient use</p> <p>(ii) Require that all water permits for the Consumptive Use of fresh water...include conditions for, where appropriate, the return of fresh water to Freshwater Resources...</p> <p>(iii) Require that all discharge</p>	<p>Policy 3</p> <p>...every territorial authority must notify a proposed district plan, change or variation...</p> <p>(d) Gives effect to the regional policy statement</p> <p>(e) Includes rules to require that all relevant land-use and subdivision consents granted after the commencement of this National Policy Statement include conditions for –</p> <p>(ii) Sustainable management of demands on fresh water in a manner which as regard to available supply of fresh water and adverse effects, both individual and cumulative; and...</p>

<p>demand strategies are established for such supply;</p> <p>(iii) Promotes efficient Freshwater use (...); and</p> <p>(iv) Increases resilience to the effects of climate change; and</p> <p>(v) Controls adverse effects; and</p>	<p>permits affecting Freshwater Resources...include conditions for –</p> <p>(B) Sustainable management of demands on fresh water in a manner which has regard to available supply of fresh water and adverse effects, both individual and cumulative</p>	<p>Policy 5</p> <p>When preparing a district plan..., every territorial authority must consider the following:</p> <p>(b) that the planning for and implementation of Land-use Development applies industry good practices in order to –</p> <p>(ii) Maximise efficiency in the use of Freshwater Resources</p>
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Comments:

4.5.1 Metrowater supports the need to manage demands for freshwater and establish priorities. Metrowater, together with Watercare, is responsible for meeting the demand for water supply for Auckland City, and we believe it is essential for the available water resources to continue to meet the current and future demand of a growing population. In particular, we support:

- Policy 1(i)(i) which seeks to provide certainty to communities and water users, and recognises the need to prioritise the use of freshwater for consumptive uses;
- Policy 1(i)(ii) which provides priority for reasonably foreseeable domestic water supply over other competing demands; and
- Policy 1(i)(iii) which promotes efficient freshwater use.

4.5.2 Policy 1(i)(ii) provides for prioritising domestic water supply, provided that an appropriate demand strategy is established. While Metrowater supports the need for demand management to minimise pressure on water resources, we believe the requirement for demand management is an entirely different issue to resource allocation, and these should be addressed separately. Resource allocation is about who gets how much water, whereas demand management is about how that water is used. All water users should be required to ensure that their water take volume is justified and appropriate for their activity, and that all reasonable efforts are made to use water efficiently to minimise resource demands to the extent practicable.

4.5.3 Policy 1(a) requires the regional councils to set the Environmental Flows and Levels to protect the Notable Values while Policy 1(h) gives priority to foreseeable water supply. In times of lows flows, these policies may conflict. To provide for domestic supply requirements, it may be necessary to take more water than what would be necessary to maintain the Environmental Flows. The NPS is silent on how to resolve this conflict. In addition, while we support the need to give priority for domestic water supply, other uses such as fire fighting are essential services that should also be included in priority supply.

4.5.4 Policy 1(i)(iii) requires regional councils to promote efficient freshwater use. In principle, Metrowater supports the efficient use of freshwater. However, there is no tangible guidance provided in the draft NPS as to what this means, and what would be considered efficient use. There are a number of definitions of efficiency. Efficiency can mean using measures that reduce the amount of water used per unit of any given activity (consumptive efficiency), but it can also mean ensuring that water is allocated in such a way as to maximise the net social benefit (allocative efficiency).

Outcome Sought:

- 4.5.5 Amend Policy 1(i) provide guidance on how to balance water takings for domestic use, and the requirement to sustain Environmental Values. This could be addressed for example, by allowing takes beyond the Environmental Flows, but not exceeding the Ecological Flow requirements.
- 4.5.6 Remove the words from Policy 1(i)(ii) that say “provided that appropriate demand strategies are established for such supply”.
- 4.5.7 Amend Policy 1(i)(iii) to provide guidance on what “efficient water use” entails, or add a definition to provide further clarity. This could include reference to demand strategies and other tools to ensure water use is justified and appropriate. However, if the policy requires a demand management strategy, it must provide direction on what an “appropriate” demand management strategy is and who will decide whether a strategy achieves that.

4.6 Iwi and Hapu Role

NPS Provisions:

Regional Policy Statement	Regional Plans	District Plans
<p>Policy 1 (d) Guide and direct local authorities as to the involvement of iwi and hapu in the management of, and decision-making regarding, all Freshwater Resources of the region, including but not limited to, requiring local authorities to disclose how they are intending to achieve this involvement (e) Identify Tangata Whenua Values and Interests in respect of all Freshwater Resources of the region (f) Guide and direct regional and district plans (...) in relation to the recognition of Tangata Whenua Interests in respect of all Freshwater Resources of the region (g) Guide and direct regional plans (...) to restrict existing takes, uses, damming and diversion of fresh water in order to sustain Notable Values and non-consumptive Tangata Whenua Values and Interests in times of low flow Policy 4 When preparing a RPS...and when preparing a regional plan..., every regional council must consider the following: (f) Tangata Whenua Values and Interests</p>	<p>Policy 4 When preparing a RPS...and when preparing a regional plan..., every regional council must consider the following: (f) Tangata Whenua Values and Interests</p>	<p>Policy 5 When preparing a district plan..., every territorial authority must consider the following: (d) Tangata Whenua Values and Interests</p>

Comments:

- 4.6.1 The draft NPS places a significant level of importance on ensuring that decisions related to the management of Freshwater Resources take into account Tangata Whenua Values and Interests. This is important; however, the draft NPS provides little guidance on what these “Values and Interests” are in practice. While it may not be feasible to provide a precise definition, the

NPS should provide a more detailed framework for understanding these Values and Interests and how they relate to Freshwater Resources.

- 4.6.2 The importance of taking into account Tangata Whenua Values is well established in the RMA. The NPS appears to essentially restate what is in the RMA, without providing any additional guidance on what this means for the management of Freshwater Resources. As this is a fundamental part of the NPS, the NPS should clearly provide guidance on how these values should be incorporated in the management strategy.
- 4.6.3 There is potential for conflict between Policy 1(g) and Policy 1(i). Policy 1(g) requires the regional councils to restrict takes, uses, damming and diversion of freshwater to sustain Notable Values and non-consumptive Tangata Whenua Values and Interests in times of low flows. However, Policy 1(g) establishes priority for domestic water supply over other competing demands. While Policy 1(i) establishes priority for domestic water supply, it appears to limit this to the water available over and above that which is required to sustain Notable Values and non-consumptive Tangata Whenua Values and Interests (which are not defined). This essentially gives priority to the Notable Values and non-consumptive Tangata Whenua Values and Interests over domestic drinking water.

Outcome Sought:

- 4.6.4 Add a definition of Tangata Whenua Values and Interests to the NPS.
- 4.6.5 Amend Policy 1(g) to remove the implication that the non-consumptive Tangata Whenua Values and Interests have priority over domestic water supply.

5. Conclusion

- 5.1 Metrowater supports the need to develop a better policy framework for managing Freshwater Resources and the overall purpose of the NPS. However, we do not support the NPS as currently drafted. To provide policy direction for the effective management of Freshwater Resources, the NPS must:
- Provide clear direction on national priorities and approach to balancing competing values when there are conflicts between values and uses
 - Explicitly recognise the range of uses and values of different Freshwater Resources, particularly between urban and rural environments
 - Direct the central government to establish the framework for setting ambient-water quality standards or outcomes and revise the policies related to the role of the Regional and Territorial Authorities in accordance with the framework
 - Be restructured to focus on outcomes rather than on administrative process.
- 5.2 Metrowater appreciates the opportunity to provide comments on the draft NPS and would like to participate in further discussions on the development of the NPS for Freshwater Resources.