



Submission to the Board of Inquiry:

**Proposed National Policy Statement for
Freshwater Management**

January 2009

Introduction

A not for profit incorporated society, the New Zealand Water and Wastes Association (NZWWA) promotes and enables the sustainable management and development of the water environment. With 1500 members the NZWWA's membership is large and diverse, including Territorial Local Authorities (TLAs), Council Controlled Organisations (CCOs), water and wastes services providers, the major consultancies involved in providing engineering, planning and research services to the industry, Crown and other Research Institutes involved in the water and wastes environment, academia, members of the legal fraternity and training providers.

The NZWWA believes that water can be managed far more efficiently and economically than at present. We have identified five key issues that we believe require resolution if long term sustainable water management is to be achieved. There are other important water related issues but these are fundamental precursors to achieving effective freshwater management.

The issues

The issues NZWWA has identified require addressing if the goals of "*clear central government policy*" detailed in the preamble to the proposed NPS are to be achieved. As a general point we note that the target date of 2035 to attain those goals does not demonstrate the appropriate level of urgency required if a number of the key issues are to be resolved.

The five issues identified by NZWWA are (in no particular order):

- institutional reform;
- the infrastructure expenditure issue;
- demand management;
- water quality and land use; and
- the Treaty partner's role in water management.

A common theme across all these issues is that legislative revision beyond the proposed NPS will be required to allow resolution. This would potentially involve the Local Government Act, the Resource Management Act, and the Building Act.

In evaluating the effectiveness or otherwise of the proposed NPS we have taken each of these issues and tested them against the objectives of the NPS and the policies proposed to address those objectives.

Institutional reform

The proposed NPS does not address this issue and assumes the current structure and management mechanisms for water will ensure the goals of the

proposed NPS are attained. We would note that 73 separate entities responsible for three waters infrastructure and land-use planning and development (and another 12 responsible for among other matters, water quality) is not conducive to, *“improve the integrated management of Freshwater Resources by territorial authorities, regional councils, and those whose activities affect Freshwater Resources.”*

This fragmentation of policy formulation, delivery, and institutional arrangements is also present at the central government level.

Central Government agencies dealing with water policy include, but are not limited to: the Ministry for the Environment, the Ministry of Health, the Ministry of Agriculture and Forestry, the Ministry for Economic Development, Treasury, the Ministry of Social Development and the Department of Building and Housing.

Attempts at departmental level for a “whole of government” approach to water policy have not been productive. For example, some of the standards proposed under the Resource Management Act are likely to cause further regulatory layers being imposed without clear national direction. The new Government’s proposed review programme for the RMA is welcomed but it is questionable it will aid in improving water management.

The regulatory instruments used to manage water either weren’t designed to do so and therefore don’t provide a good ‘fit’ (i.e. the RMA), or don’t encourage efficiency (i.e. the Local Government Act).

Implementation of the current drinking water statute similarly remains problematic, particularly at the smaller supplier level. It appears a regulatory standard has been set that is unrealistic, and in some instances, unenforceable.

Water resource development planning is done centrally in other countries. This approach was abandoned in New Zealand twenty years ago with the dismantling of the Ministry of Works. Until such time as a central water planning and management agency is reinstituted the introduction of sustainable water strategies will remain problematic.

We are of the view that that an alternate model to the current highly fragmented situation will certainly result in more effective, efficient and sustainable outcomes.

A number of alternate local management models are currently operating in the global market, with Melbourne being one example and south eastern Queensland another. It is notable that whilst in both those jurisdictions water management is more centralised, local political structures and representation remain.

Infrastructure expenditure

NZWWA has conducted an analysis of the 2006-2016 Long Term Council Community Plans (LTCCPs) and determined that collectively the councils project a total capital and operating expenditure of \$22 billion for three waters delivery and disposal over the ten year period.

The RMA and instruments such as policy statements were not designed for and do not give recognition to the funding issues faced by many communities, particularly the smaller ones. In many areas water infrastructure is aged and requires upgrading or rebuilding. We note the next iteration of LTCCPs, 2009-2019, are currently under development with indications being that this figure could well increase.

The funding issue was recognised by the Shand Rates Inquiry and a number of measures were proposed to address it but these have yet to be actioned.

Policy 1 (regional policy statements) of the proposed NPS under section (j) discusses guidance and direction regarding the integrated management of the effects of land-use development and states this be achieved, *“by encouraging co-ordination and sequencing of infrastructure for supply, storage and distribution of freshwater..”* Policy 5, in respect to territorial authority planning, expresses a similar directive except the phraseology employed is, *“that the planning for and implementation of infrastructure....”*

Unless attention is given by central Government to the funding issues involved in the provision of water and wastes services it is unlikely the desired outcomes of Policies 1 and 5 will be achieved. We also note the infrastructure investment issue is inextricably linked to the question of institutional arrangements.

Demand management

Objective 6 (managing demand) and Objective 7 (efficient use) address the same issue. Throughout the document use of water has the proviso that demonstrable efficiency measures and technologies must be employed. While such direction is welcome we question how within the current structure and charging mechanisms this can be achieved.

In the absence of any central guidance the measures proposed could well result in 73 different versions of “demand management”. NZWWA is currently working with the Ministry for the Environment, Local Government NZ and other parties investigating the development of national guidance material on water efficiency methodologies and technologies. The success of this project, and the effectiveness of the measures in the proposed NPS, will be dependent on support and promotion by central Government of demand management.

We would note that New Zealanders at large do not have an appreciation of the value and cost of supply of water.

Many view it as a “right”, and there is limited understanding of the need to use it efficiently, which is compounded by the current non-volumetric charging methods used by the majority of councils.

Demand management should encompass the complete water cycle. NZWWA fully supports the work being done to ensure widespread adoption of water measuring devices for abstraction, believing this to be an essential tool in having the information to effectively manage and monitor supply of the resource.

Similarly, as an awareness raising tool and a demonstrably effective method to achieve efficiency of demand, we would urge specific support for universal demand side metering.

Only 11 of the 73 TLAs have compulsory metering and volumetric charging, while a further 8 TLAs have metering in only some areas of their jurisdiction. Recent research has shown that the introduction of metering results in almost immediate efficiency gains. Nelson City, for example, has reported a 37% reduction in peak summer demand periods.

The average daily per capita water use across six of the councils with metering is 184 litres. This contrasts with figures of over 700 litres from some TLAs without metering. It should be noted that in the absence of metering these latter TLA figures are estimates. It is also of note that for most TLAs an effective way to identify leakage is absent.

The Shand Rates Inquiry recommended that volumetric charging for water be encouraged, the impediments to user charges for waste water be abolished, and that Government explore funding assistance to support the introduction of water meters.

NZWWA believes measures such as these are critical to achieving effective demand management.

Water quality and land use

All nine of the Objectives of the proposed NPS address either water quality or land-use. This is clearly an increasingly important issue as land-use changes, notably in the south of the country, seem likely to increase. The Ministry of Agriculture and Forestry (MAF) in their most recent forecast, *Situation and Outlook for New Zealand Agriculture and Forestry (August 2008)*, have noted,

New Zealand's dairy industry is prospering. In inflation-adjusted terms, payouts have reached a 43-year high and a portion of these gains is likely to persist into the future.

Milk solids production was down 3.2 percent for the year ended 31 May 2008 due to the drought. However, if growing conditions return to normal, this should prove a temporary setback. The number of cows and heifers in milk is increasing – up 0.4 percent at 30 June 2007. Steady growth in the number of dairy cows and the yield of milk per cow is expected over the next four years. After recovery from the drought, growth in milk solids production of 3 percent per year is expected.

Other trends include a southern shift. Growth is entirely in the South Island and at the expense of lamb finishing. In contrast, the number of dairy cattle in the North Island is falling due to competition for the land from other non-pastoral and lifestyle uses.

Land used for dairy farming in New Zealand increased by over 50% between 1990 and 2000 and is projected to increase by a further 16% by 2010.

While it is unreasonable to assert all lowland stream water quality issues are a consequence of dairy farming it is clear that the level of intensification occurring, if not adequately managed, will have adverse consequences.

The question then arises, are the policies outlined in the proposed NPS going to improve the situation?

Policies 2, 3, 4 and 5 discuss matters that must be included in regional and district plans and regional policy statements. In each case conditions to protect the degradation of water quality and control the effects of land-use development and discharge of contaminants is, *“to be achieved, as a minimum, by the use of industry good practice”*. Good practice is not defined. A national policy statement that fails to define adequate water quality runs the risk of allowing for 12 different regional standards.

Achieving the goals set down in The Dairying and Clean Streams Accord five years ago remains problematic.

A number of councils and farming groups are working together to fence waterways and minimise effluent discharges, but practice remains variable. It would be appropriate that more consistent guidance is resourced that goes further than “industry good practice” and discusses minimum standards that must be applied and reported.

There has been discussion of late on the possibility of developing a non-point source nutrient trading regime based on proxies monitoring (i.e. stock numbers

and type, fertilizer usage, etc). Modelling is proceeding in this area and may result in the development of a polluter-pays price mechanism.

NZWWA views with concern the fact that waterway degradation can take many years to rectify. In a climate of rapidly changing land-use both price and non-price mechanisms need to be established as a priority. Given the history of variable interpretation and decision making under the current local governance model it would seem appropriate that such mechanisms be mandated nationally.

The proposed policies in this regard will not achieve the desired outcomes.

The role of the Treaty partner

The preamble to the proposed NPS cites the Treaty of Waitangi as the foundation of the Crown – Maori relationship with regard to freshwater resources. In one sense, this seems to suggest acknowledgment of a partnership between Crown and Maori, but commentary by prominent iwi figures has suggested this is not a particularly robust partnership.

It is of concern that the proposed NPS appears to shift the Crown's role in the relationship down to regional councils and subsequently TLAs. Maori are quite clear that their relationship is with the Crown and NZWWA views with concern the apparent unwillingness of the Crown to openly discuss the Maori perspective on water issues.

We note that senior Maori figures have rejected the ownership question as an issue, and stressed that what they are interested in is recognition of Maori cultural and spiritual values in reference to water – and participation in the governance and management of the resource.

A co-management regime has very recently been developed for the lower Waikato River and while it is too early to evaluate the effectiveness or otherwise of that regime it may be a model that will offer a more effective outcome than that proposed in the NPS.

Local authorities have very limited experience in, *“the involvement of iwi and hapu in the management of, and decision making regarding, all Freshwater Resources of the region”*. We would also note that in some jurisdictions there are numerous hapu (in some cases, hundreds). The requirements of the proposed NPS, if implemented, will take a very long time, result in very high consultation costs, and present a high risk of conflict and consequent litigation.

There is currently a claim, Wai 1053, regarding local authority actions before the Waitangi Tribunal. The claim results from a dispute between Tasman District Council and the Wakatu Incorporation and Te Atiawa Iwi Trust over groundwater takes.

Water is far too important a resource to potentially be implicated in a series of such claims. The process suggested in the NPS is fraught with difficulties; therefore NZWWA strongly supports a national dialogue on Maori values and aspirations in regard to that resource.

Conclusion

The proposed NPS fails to adequately address any of the key issues requiring resolution. In particular, rather than offering national direction, it will further aggravate the already severely fragmented state of water management in this country. It should not, therefore, be advanced.

NZWWA is aware that the current Government's official policy on the RMA contains the following comment:

We will initiate a collaborative governance process that will engage key stakeholders – water users, recreational users, iwi, and environmentalists – to develop a better framework. We will put on hold the widely condemned draft National Policy Statement on Freshwater Management, and give the collaborative governance process the opportunity to come up with a better approach.

NZWWA would urge the Board of Inquiry to take note of this policy comment and the sentiments it expresses and suspend further consideration of the draft NPS.