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Committee Council
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Submission on the Proposed National Policy Statement for Freshwater Management

1. Purpose

To seek Council's approval of a submission on the Proposed National Policy Statement for Freshwater Management (the proposed NPS)

2. Significance of the decision

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

3. Background

The Minister for the Environment can make national policy statements under the Resource Management Act 1991 (the RMA). Local authorities must give effect to national policy statements through regional policy statements, and regional and district plans. A local authority must also take any other action that is specified in a national policy statement.

The Proposed National Policy Statement for Freshwater Management is a key part of central government's Water Programme of Action, which began in 2003. The intention to prepare this National Policy Statement was signalled in 2006. In December 2007, the Ministry for the Environment sought comment from regional councils and other interested people on what issues should be addressed in a national policy statement on freshwater management. Greater Wellington's comments were made in March 2008

The proposed NPS was released in July 2008, and a four person Board of Inquiry has been appointed to inquire into and report on it. The Board of Inquiry has set a closing date for submissions of 23 January 2009.

Other regulatory elements of the National Water Programme of Action include a standard for drinking water-sources that is already in place, a proposed standard for water measuring devices that has been through the submission

process, and a proposed standard for ecological flows and water levels that Greater Wellington submitted on in August 2008.

4. The Proposed National Policy Statement on Freshwater

The proposed NPS outlines objectives and policies for the management of fresh water, which are intended to help inform immediate decisions as well as longer-term thinking and planning. The stated intention is to enhance management of New Zealand's freshwater resources so that, by 2035, these resources meet the needs and aspirations of all New Zealanders. A copy of the proposed NPS is appended as **Attachment 1**.

5. Greater Wellington's submission

The draft submission on the proposed NPS is appended as **Attachment 2**.

Greater Wellington's submission endorses the *Issues and Options Paper* on the proposed NPS prepared by Local Government New Zealand (LGNZ). It is likely we will fully support the final submission from LGNZ, but it is not yet available. Staff recommends that final approval of the attached submission lie with the Chair for this reason.

Greater Wellington is currently reviewing its Regional Policy Statement. In general, the current draft of the proposed Regional Policy Statement gives effect to provisions of the proposed NPS. However, there is one set of provisions that would require us to make significant changes to our proposed Regional Policy Statement. These are policies in the NPS that use the terms "notable values", "outstanding freshwater resources" and "degraded freshwater resources"

The submission strongly opposes these provisions because they are not efficient or effective ways of achieving the objectives of the proposed NPS. The terms are very poorly defined and will lead to high litigation costs that could be repeated from region to region because of the scope for each regional council to apply them differently. We have drawn central government's attention to the approach that we are taking in the proposed Regional Policy Statement as being more effective and efficient.

Instead of identifying "notable values", we support an approach that requires regional plans to identify the purposes that water bodies are to be managed for. In practice, such an approach would apply all the information that local authorities have about the values and uses of any particular water body. It is also consistent with the approach indicated in the Third Schedule of the RMA for managing water bodies.

The proposed NPS requires regional policy statements to identify and manage "outstanding freshwater resources". The NPS is an opportunity for central government to identify nationally significant water bodies and provide direction and guidance on how they should be managed. Central government has been working on its "water bodies of national importance" process for

some years now and has already sought comments on draft lists of significant water bodies. It seems appropriate that the results of this exercise should be referred to in the NPS as we believe it is inappropriate for regional councils to be responsible for identifying what is nationally significant. Alternatively, if central government is unable to identify “outstanding freshwater resources”, then criteria should be included in the NPS by which regional councils can decide which freshwater resources are significant. Greater Wellington will identify regionally significant water bodies in the proposed Regional Policy Statement.

The proposed NPS requires regional policy statements to identify and manage “degraded freshwater resources”. We used a similar approach in our Regional Policy Statement and Regional Freshwater Plan, which were both made operative a decade ago. These planning documents identified degraded water bodies and sought their enhancement. We now consider a more effective approach is to establish water quality and flow and water level standards, and make sure that these are achieved.

Other changes to the NPS that we have sought in our submission are

- Include an objective and policy(ies) that recognise the interconnections of fresh water with land resources and provides direction for the adoption of a holistic and integrated approach to decision making that goes beyond what is already stated in the RMA.
- Include a policy(ies) setting out the non-regulatory approaches that central government will take to help achieve the objectives of the NPS.
- Include a policy(ies) that requires management of the cumulative adverse effects of activities and gives policy direction on how significant cumulative adverse effects on freshwater resources are to be avoided.
- Include a policy(ies) that provides a mandate for local authorities to apply a precautionary approach and gives direction on how to exercise caution in the face of scientific uncertainty.
- Include a policy(ies) that provides direction on how currently over-allocated freshwater resources are to be addressed.
- Make changes to the time frames so that effect is given to NPS provisions at the time of the next review of regional or district plans.
- Delete policies 2(c)(iv) and 3(c), which require regional plans to include rules for monitoring and reporting on resource consents.
- Replace the term “freshwater resources”, where it is used in the proposed NPS, with the term “water bodies”.

6. Next steps

Once submissions close, a summary of submissions will be prepared and made available for inspection. Further submissions will then be called for, followed by public hearings. In its submission Greater Wellington has asked to be heard. The Board of Inquiry will then recommend a National Policy Statement to the Minister for the Environment for final decisions.

6. Recommendations

That the Council:

1. ***Receives*** the report;
2. ***Approves*** the draft submission by Greater Wellington on the Proposed National Policy Statement for Freshwater Management.
3. ***Notes*** that amendments may be made to the draft submission to better align it with the submission from Local Government New Zealand when their submission is completed; and
4. ***Delegates*** to the Council Chair, the power to approve, on behalf of the Council, changes that may be necessary to finalise the draft submission.

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Attachment 1: Proposed National Policy Statement on Freshwater Management

Attachment 2: Draft submission on Proposed National Policy Statement on Freshwater Management