

BEFORE THE MANAWATU-WANGANUI REGIONAL COUNCIL

UNDER Resource Management Act 1991

IN THE MATTER of submissions on the Manawatu-Wanganui Consolidated Regional Policy Statement, Regional Plan, and Regional Coastal Plan for the Horowhenua, Manawatu, Rangitikei, Ruapehu, Tararua, and Wanganui District Councils

AND

IN THE MATTER of hearings by the Manawatu-Wanganui Regional Council regarding the Manawatu-Wanganui Consolidated Regional Policy Statement, Regional Plan, and Regional Coastal Plan – Water

EVIDENCE OF ANNETTE SWEENEY

BROOKFIELDS

LAWYERS

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INTRODUCTION

1. My full name is Annette Lisa Sweeney. I am a Principal Environmental Engineer with Good Earth Matters Consulting Limited, an environmental engineering, asset management, planning and resource management consultancy practice based in Palmerston North and Christchurch.
2. I hold the degrees of Bachelor of Engineering (Natural Resources) and Master of Science (Resource Management). I am a Chartered Professional Engineer (CPEng) and Member of the Institute of Professional Engineers of New Zealand (M.IPENZ).
3. I have been engaged in environmental engineering and resource management practice for 12 years. In particular, I have been involved in the monitoring, planning, design and construction of local government infrastructure, particularly wastewater, water supply and solid waste. This experience has focused on small rural communities and has included undertaking investigations to determine preferred options, preparing assessments of environmental effects and resource consent applications, detailed design and implementation of upgrade strategies.
4. My directly relevant experience includes 8 years experience consenting takes and discharges, designing and managing infrastructural upgrades, managing compliance and auditing performance of infrastructure upgrades for the public and private sector in the Manawatu-Wanganui region and throughout the lower North Island and South Island. Since the Proposed One Plan was notified, I have been involved in progressing resource consent applications on behalf of public and private sector clients for municipal discharges to water, municipal water takes, and industrial discharges to land.
5. I confirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Consolidated Practice Note (2006). I have approached the preparation of this evidence in the same way that I would for the Environment Court. I agree to comply with the Code of Conduct.
6. The evidence I am about to give is within my area of expertise and represents my best knowledge about this matter. To my knowledge, I have not omitted any material facts that might alter or detract from the opinion expressed here.

SCOPE OF EVIDENCE

7. My evidence focuses on the activity status and policy provisions within the Proposed One Plan and how these may be interpreted in the consenting of territorial authority water takes and sewerage treatment plant ("STP") discharges. I have approached this evidence from the point of view of a practitioner attempting to interpret and apply the provisions of the Proposed One Plan. I have used the following case studies:
- (a) Feilding STP;
 - (b) Woodville STP;
 - (c) Dannevirke Water;
 - (d) Feilding Water; and
 - (e) Halcombe-Stanway Rural Water Supply.

MUNICIPAL STP DISCHARGES

8. I have attached flowcharts for Woodville STP and Feilding STP, which show the path through the Proposed One Plan (as notified). These flowcharts start at the Regional Plan level to identify activity status and then move in to consideration of relevant policies of the Regional Plan and Regional Policy Statement. Where the activity is considered to be consistent with a policy, the boxes are coloured green. Where the activity is considered to be inconsistent with a policy, the boxes are coloured red. Where there is uncertainty as to how a policy may be interpreted, the boxes are white.
9. The attached flow charts highlight that each activity is consistent with some, but not all, of the relevant policies. They also highlight that there are several policies where the expected interpretation is unclear. The concern here is that there is no certainty for the territorial authorities. Specific issues are as follows:

Rule 13-13: Treatment Storage Ponds

10. Rule 13-13 requires treatment ponds to be lined to 10^{-9} m/s and to be located at least 30 metres away from water bodies and roads (amongst other criteria) in order to be considered a permitted activity. The concerns with this rule are:
- (a) In order to line ponds retrospectively, it will be necessary to bypass the ponds and potentially discharge partially treated effluent. Such activity is not provided

for, other than as a discretionary activity under the general Rule 13-27, in the Plan;

- (b) The 10^{-9} m/s standard is not practically achievable without significant costs. This is essentially a landfill liner standard and would require emptying the pond for considerable periods (to achieve a sufficiently dry sub-base), importation of high quality clay, which can be difficult to source in places throughout the region, and/or a geosynthetic membrane liner, and highly stringent construction and quality assurance controls; and
 - (c) Many of the existing ponds fail in the requirement for a 30 metre setback from surface water bodies and / or roads.
11. As a result, existing treatment ponds will be a discretionary activity under the Proposed One Plan. Given that relocation of these ponds is not feasible, and that the TAs are subject to the obligation under the Local Government Act to continue to provide existing services, a controlled activity rule for existing ponds that do not meet the requirements of Rule 13-13 would be desirable.

Policies 6-3 to 6-5

12. Policies 6-3 to 6-5 describe different management approaches depending on whether the water quality standards are currently met (policy 6-3), whether the water quality standards are not met (policy 6-4), or whether there is insufficient data to determine the water quality (policy 6-5). Consideration of these policies is on a parameter by parameter basis.
13. On the attached diagrams, water quality parameters were assessed by comparing upstream and downstream water quality against the POP standards. For a point source discharge, maintenance or enhancement may be considered as maintaining / enhancing upstream water quality or maintaining / enhancing the historic downstream water quality by way of treatment improvements.
14. The recommendation of Ms Barton (at page 85 of her report) to amend policy 6-4 so that it is clear that the reference to enhancing existing water quality does not require that a discharge "clean up" the receiving environment, is noted and supported.

15. Policies 6-3 to 6-5 do not provide any guidance as to how data is to be interpreted. It is unclear how much data is required before water quality is considered “known” (and therefore policies 6-3 and 6-4 apply rather than policy 6-5). It is also unclear as to the degree of compliance required for it to be considered that water quality is met. For example, is it acceptable to have a single outlier in a data set? Some guidance as to how data is to be interpreted in order to determine the applicable policy would be useful.

Policy 6-8: Point Source Discharges to Water

16. It is unclear how this policy will be interpreted, particularly (a)(ii) “whether the discharge, in combination with other discharges including non-point source discharges, will cause the water quality standards set in Schedule D to be breached”.
17. The relative contribution of all discharges needs to be assessed in order to undertake this assessment. Regional Council officers have done considerable work in this area, particularly with respect to load limits. However, it is unclear how this work is translated through to the Proposed One Plan policies. It is considered that policy 6-8 should also make reference to the timeframe for achieving the water quality standards as set out in Objective 6-1.

Policy 6-10: Options for Discharges to Surface Water and Land

18. Policy 6-10 includes an obligation to consider alternatives to discharges to surface water, including a mixture of discharge regimes and discharge to land. This is consistent with the requirement to consider alternatives under the Resource Management Act and provides guidance to the applicant as to specific options to consider.
19. However, what is unclear is the level of consideration required and whether or not it will be considered acceptable to have considered these options, but to have selected a continued discharge to water as the preferred option. Recent experience with consenting has shown a desire from Horizons Regional Council to promote discharge to land, and this is reflected in the evidence presented by Horizons' officers in relation to the Proposed One Plan.

Linkage with Policy 3-3

20. Policy 3-3 states that minor adverse effects will be tolerated, taking in to account the benefits of infrastructure. It is not clear how this policy will be considered in light of the policies of the water section of the Proposed One Plan.

Summary

21. As a result of the discretionary activity status of the STP discharges, the consent applications will be assessed against the policy provisions of the Proposed One Plan. It is considered that further interpretation guidance is necessary to ensure that there is consistent interpretation by applicants (so that appropriate applications can be developed) and reporting officers from application to application.

MUNICIPAL WATER TAKES

22. I have attached flowcharts for Feilding (Oroua River surface water take), Dannevirke, and Stanway-Halcome Rural Water Supply showing the path through the Proposed One Plan (as notified). These flowcharts start at the Regional Plan level to identify activity status and then move in to consideration of relevant policies of the Regional Plan and Regional Policy Statement. Where the activity is considered to be consistent with a policy, the boxes are coloured green. Where the activity is considered to be inconsistent with a policy, the boxes are coloured red. Where there is uncertainty as to how a policy may be interpreted, the boxes are white.
23. The attached flow charts highlight that, each activity is consistent with some, but not all of the relevant policies. They also highlight that there are several policies where it is unclear as to interpretation. The concern here is that, there is no certainty for the territorial authorities. Specific issues are as follows:

Activity Status of Water Supply Abstractions

24. I note that the Regional Council's officers are recommending some changes to the rules for water takes which, if accepted, would modify the attached diagrams.
25. Rule 15-15 provides for takes complying with core allocations as a controlled activity. The recommended change to add criteria (ba) providing for takes for municipal supplies

consistent with policy 6-19 below minimum flow is supported. Provided policy 6-19 could be met (Mr Bridges has discussed this in his evidence), then the activity status of most supplies would be controlled. This is supported as it provides a high degree of certainty for territorial authorities.

26. Rule 15-6 states that takes – when assessed in combination with other water takes – exceeding the core allocation are a non-complying activity. This presents difficulties for territorial authorities who may, upon consent renewal, find themselves seeking consent for a non-complying activity as a result of other takes being granted consent elsewhere in the catchment.
27. This is the case for the Dannevirke supply, which, as a result of irrigation abstraction takes being consented downstream, is in a position of having to apply for a non-complying activity despite committing to water storage, which will mean that they can reduce their take to within the core allocation for the particular sub-zone.
28. As a non-complying activity, one of the gateway tests of s104D is to be consistent with the relevant policies. The current policy framework presents some difficulties in this area as discussed below.
29. The Regional Council's officers appear to be encouraging use of supplementary allocation in order to harvest water (and thereby reduce or cease take at low flows). This, however, is not supported by the rule framework, which requires the application to be assessed as a discretionary activity under rule 15-8.

Policy 6-12

30. Policy 6-12 presents a formula for calculating the amount of water that is considered reasonable and justifiable. The difficulties with this “one size fits all” approach (refer also to Mr Bridges evidence) is highlighted in the attached flowcharts. With respect to the three schemes considered:
 - Dannevirke is required to reduce its water use by approximately 28% to be consistent with this policy;
 - Feilding could increase its water use by approximately 9% and still be consistent with this policy; and

- Stanway Halcombe Rural Water Scheme could increase its water use by 25% and still be consistent with this policy.
31. One of the difficulties with assessing schemes against this policy is that, within the Region, the data available in terms of the types of connections and the amount these connections are using is not sufficiently robust to provide definitive calculations in accordance with Policy 6-12. Several assumptions are required to perform this calculation.
 32. The other concern with Policy 6-12 is that it only provides a means of agreeing a timeframe to meet the calculated reasonable use limit. It does not provide a mechanism for agreeing with Regional Council an alternative reasonable use figure for any community. This has implications for s104D gateway tests if, because of other consented abstractions, a water supply finds itself with a non-complying activity status and is inconsistent with policy 6-12.

Policy 6-13

33. The recommended change to Policy 6-13(b) (page 114 – 115 of Ms Barton's report) is supported as it provides clarity of interpretation and certainty for the territorial authorities.

Policy 6-14

34. Policy 6-14 requires consideration of alternative water sources. The recommended change adds water harvesting as a specific alternative to be considered (page 117 of Ms Barton's report). Consideration of alternatives is consistent with the Resource Management Act requirements. The concern is the level of consideration required and the reasons that may be acceptable to the Regional Council officers for not adopting alternatives.
35. For example, Feilding water supply has a viable alternative available in terms of the groundwater bores. It does however, carry with it quality and cost implications that have caused the Council to adopt the surface water take as its principal supply. Other schemes could seek alternative sources, including storage. However, these all incur significant cost, which may be unaffordable for the community.

Review / Expiry Dates

36. I note the proposed changes to Policy 15-5, which provides for municipal supplies to be reviewed at the common catchment expiry / review date and also Policy 15-5(b), which accords priority to community supplies. These changes are supported and will change the consideration of policy 15-5 on the attached flowcharts.

Summary

37. It is noted that the Regional Council's officers are recommending amendment of the policy and rule framework in some areas to provide more certainty for community water schemes. Some concern remains around the level to which alternatives must be considered and the determination of reasonable and justifiable use under Policy 6-12.

Annette Sweeney

19 October 2009