

**Before Greater Wellington Regional Council**

**Under** the Resource Management Act  
1991

**In the matter of** the Proposed Natural Resources  
Plan for the Wellington Region

**And**

**In the matter of** Submissions (S135) and Further  
Submissions (FS25) by **Wellington  
Water Limited**

---

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF CAROLYN WRATT  
PROVIDING COMMENTS ON THE INDEPENDENT REVIEW OF OBJECTIVES  
REPORT, IN RELATION TO OBJECTIVES RELEVANT  
TO HEARING STREAMS 1 AND 2  
28 JULY 2017**

---

---

**M J Slyfield**  
Barrister  
Stout Street Chambers  
Wellington

Telephone: (04) 915 9277  
Facsimile: (04) 472 9029  
PO Box: 117, Wellington 6140  
Email: [morgan.slyfield@stoutstreet.co.nz](mailto:morgan.slyfield@stoutstreet.co.nz)

## INTRODUCTION

1. In Minute 13 (dated 29 June 2017) the Hearings Panel invited all parties to respond to the review of Objectives<sup>1</sup> undertaken by Gerard Willis ("**the review report**"), should they wish to do so, in respect to each hearing stream. I understand the Hearings Panel clarified the timeframes for undertaking such a review in Minute 14 (dated 24 July 2017), although note this only applied to Objectives to be addressed in Hearings 3-6.
2. On the basis of the timeframes set out in Minute 13, I provide my comments on the Objectives addressed by Hearings 1 and 2.
3. Although I note that Minutes 13 and 14 set out timeframes for comment to be received with respect to the various Hearings Streams, I consider that the high level and integrated nature of the review report does not lend itself particularly well to addressing specific objectives that were attributed to certain Hearing Streams. Nonetheless I have endeavoured to focus on those Objectives that were attributed to Hearings 1 and 2.

## Comments on Preliminary Observations

4. I support the analysis at Section 1.2.1 and the two different forms for how objectives can be drafted. I find the utilitarian approach more helpful in that objectives set out (largely environmental) outcomes for the plan to achieve. When considering objectives in the context of a consent application, these are more relevant and meaningful. However I acknowledge that Mr Willis does not consider either approach to be unlawful and notes that both styles are commonplace, often occurring within the same document.
5. I agree with Section 1.2.3, in particular the reference to Section 35(2)(b) of the RMA which is often overlooked by Council. It may be a useful exercise to assess each of the Objectives against each of the principles in Section 1.2.3, and I would support the Hearings Panel directing such an exercise be undertaken. I note that the

---

<sup>1</sup> Review of the objectives of the Proposed Natural Resources Plan for the Wellington Region, Gerard Willis, 14 July 2017

review report assesses the foundation of the objectives in terms of national policy statements and the Wellington Regional Policy Statement (“RPS”). However I suggest that many of the “general context” objectives which focus on the outcome for the plan rather than the environment would find it difficult to satisfy a) – c) of the principles listed in Section 1.2.3. I note that Mr Willis considers that “a plan is about performing clear functions that require decisions to be made about how resources are used and what outcomes in the environment will be acceptable” and while I agree with this role, I question how general context objectives would satisfy this requirement. In this respect I favour the utilitarian approach rather than the general context approach.

### **Comments on Key Questions of Enquiry**

6. I agree with the sentiments expressed in Section 2.1 that that the grouping of objectives in the PNRP does not assist in conveying a coherent approach.
7. I note Section 2.3.1 of the review report questions whether all the objectives that focus on particular specific activities (particularly the discharge objectives of Section 3.11 of the PNRP) may not be strictly necessary on the basis that controlling discharges is a means to an end, rather than the end itself. At a macro level, this may make sense, however, in the case of discharges from the three waters networks, there are four further considerations.
8. First, is the requirement that the PNRP give effect to the objectives and policies in the RPS associated with regionally significant infrastructure:
  - (a) Objective 10: The social, economic, cultural and environmental, benefits of regionally significant infrastructure are recognised and protected;
  - (b) Policy 7: Requires regional plans to include policies and/or methods that recognise the benefits of regionally significant infrastructure;

- (c) Policy 8: Requires regional plans to include policies and rules that protect regionally significant infrastructure from incompatible new use and development; and
  - (d) Policy 39: When reviewing regional plans, particular regard shall be given to the social, economic, cultural and environmental benefits and protecting regionally significant infrastructure from incompatible use and development.
9. Second, is the need to recognise that discharges for the three waters network are inseparable from the benefits of the network. The discharges are not ancillary to the benefits, they are fundamental: without them the benefits cannot arise. At its simplest level, the wastewater network enables the wastewater to be taken away from communities, treated and discharged away from community activity, thus ensuring people's health. The stormwater network takes away flood water and thus protects people's health and homes.
10. Third, the National Policy Statement for Freshwater Management requires the objectives relating to water quality to recognize the full range of values held for water. It would be inappropriate for the PNRP to focus on protection of aspects of freshwater such as ecological or Maori cultural values without reflecting the "use" values (such as potable water supply, dispersion of pollutants, industrial processes).
11. Fourth, while I generally support policies being an expression of the "means" to an end, and objectives focussing on the end itself, there can also be a risk that objectives stated very broadly become ineffective. Objective O44 (*The adverse effects on soil and water from land use activities are minimised*) is an example of this. It relates to:
- (a) "adverse effects" i.e. any adverse effect
  - (b) "soil and water", which is effectively the whole region
  - (c) "land use activities" – i.e. human activities

In essence, the Objective relates to everything, everywhere, and is simply too broad to be meaningful.

12. For all these reasons, I do not consider it would be sensible or appropriate that discharges be addressed solely at the level of policy.
13. I agree with Section 2.3.2 that the objectives should be focused on the outcome, and let the policies explain how these outcomes are to be achieved.
14. Section 2.3.3 addresses those objectives that focus on "recognising" some particular matter (value or relationship). I note that Mr Willis does not consider them necessary and I would agree. However I am mindful that the remaining objectives will need to recognise the benefits of regionally significant infrastructure as required by the RPS. That is, any specific water quality objectives, e.g. Objectives O24 and O25 set outcomes which can be achieved without making the three waters infrastructure unconsentable.
15. Section 2.3.4 notes that several of the objectives use the terms "restored" or "improved" or similar non-numerically defined adjectives. I agree that these objectives are problematic as there is no clarification of what end state is sought. For example, I consider the directive to "restore" in terms of Objective O18 would be unrealistic and challenging to achieve, particularly in an urban environment, as urban development has substantially altered the character of the environment. The challenge with these objectives is that they would be considered when processing a resource consent application. It is wholly inappropriate for a resource consent application to seek to "restore" an environment or "to bring back to a previous, original, or normal condition" as outlined in the Section 42A report<sup>2</sup>, particularly in an urban environment. This is particularly true when the original condition cannot be re-created. This is also problematic where the activity for which consent is sought is likely to be only one of many factors influencing the current state of the

---

<sup>2</sup> Paragraph 131, Section 42A Report Significant Areas and Sites for Mana Whenua, Pam Guest. While it is noted that this discussion was in the context of Policy P44, the interpretation of "restore" is relevant here.

water body. Consideration of and conditions on one consent is highly unlikely to “restore” the environment.

16. I note that debate has occurred around the term “maintain or improve overall” in the National Policy Statement for Freshwater Management and what these terms mean.<sup>3</sup>
17. As noted by the review report in Section 2.3.4, objectives such as these are open to interpretation as to the level of “improvement” or the level of “restoration” that the objective is intending to achieve. This is particularly problematic when assessing resource consents and I can see this being a matter of conflict for both applicants and Council as the regulatory authority.

### **Comments on Linkages and Deletions**

18. In Section 3.1 the review report proposes a possible rationalisation of Objectives O2 and O8. I do not support this as I consider this changes the meaning considerably. The focus of taking and using water in Objective O8 is critical in giving effect to the RPS in terms of regionally significant infrastructure (of which the local authority water network is part) and the National Policy Statement for Freshwater Management. Relying on Objective O2 to give effect to those higher order provisions is not effective, given the broad perspective Objective O2 employs towards “land and water” generally, compared with the focus that Objective O8 has, on the specific benefits that accrue from taking and using water.
19. I support the comments in Section 3.2 of the review report and note that this reflects my evidence in Hearing 1.<sup>4</sup> I concur that it appears that the purpose of Objective O5 is to establish a blanket water quality, assessed through subjective measures for both fresh and coastal water bodies. Given the detail contained in Objectives O24 and O25, it is not clear the value that Objective O5 adds to the Plan. Objectives O24 and 25 give a more complete picture, and in the case of O25 recognise that improvements in waterbodies below

---

<sup>3</sup> Ministry for the Environment. 2016. Next steps for fresh water: Consultation document. Wellington: Ministry for the Environment.

<sup>4</sup> Paragraph 50, Statement Of Evidence Of Carolyn Wratt on behalf of Wellington Water Ltd, 5 May 2017.

standard will occur 'over time'. Arguably Objective O5 creates unnecessary confusion / alignment issues with the more detailed Objectives.

20. It seems to me that there is considerable overlap between Objective O24 and Objective O25. Objective O24 is focused on water *quality* (such as being suitable for primary contact recreation) whereas Objective O25 is focused on water *quantity* (such as minimum flows), water *quality* and habitat quality (which is in part having enough water, having water of a suitable quality but also takes into account physical attributes of the bed and riparian margins). While I have issues with the wording of the objectives as I set out in my evidence for Hearing 1, I support the rationalisation into two objectives as suggested in Section 3.2 of the review report. However I consider they could be more tightly focused on their intent i.e. one on water quality and the other clearly addressing water quantity. I do not believe the objectives as suggested in the review report are focused or different enough – there still seems to be a great deal of overlap.
21. I do not see the purpose of Clause c) of Objective O25 as suggested in Section 3.2 of the review report as I do not consider it necessary to cross reference to another Objective. I consider each objective should stand on its own (notwithstanding that the objectives may well be inter-related).
22. Section 3.4 of the review report seeks to rationalise Objectives O12 and O13 into a single objective. While I understand the rationale for combining the Objectives, I consider that the messages and focus of each Objective is somewhat lost by combining them. The RPS Objective and policies in particular regarding regionally significant infrastructure are focused on two discrete areas:
  - (a) recognise the benefits of regionally significant infrastructure; and
  - (b) protect regionally significant infrastructure from incompatible new use and development.

23. I believe that merging these two objectives loses the emphasis that was afforded by having two separate objectives. I consider the amalgamation of the two objectives does not materially "rationalise" them anyway, as it doesn't eliminate a duplication, it just takes the existing two sets of wording and runs them together into a single objective.
24. I agree with the review report at Section 3.7, that Objective O44 can be dispensed with. As notified, I consider this Objective serves no purpose and I addressed this issue in my evidence.<sup>5</sup> I consider the Objective is too broad to be particularly meaningful, as it relates to everything, everywhere.

**Comments on Section 4: "Objectives or Policies?"**

25. Section 4 of the review report considers the purpose of a policy and whether any of the objectives are more appropriate as policies. I concur with the explanation of the essential difference between a policy and an objective. I agree that all the objectives identified in this section of the review report do indeed read as policies. This means that they either need to be redrafted as outcome statements (i.e. objectives) or transferred to become policies.



---

**CAROLYN WRATT**

**28 JULY 2017**

---

<sup>5</sup> Paragraph 71, Statement Of Evidence Of Carolyn Wratt on behalf of Wellington Water Ltd, 23 June 2017