

#4099

Proposed Auckland Unitary Plan Submission Form

Sections 123 and 125, Local Government (Auckland Transitional Provisions) Act 2010
Clause 6 of First Schedule, Resource Management Act 1991
FORM 2



Correspondence to :
Attn: Unitary Plan Submission Team
Auckland Council
Freepost Authority 237170
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Auckland 1142

For office use only
Submission No:
Receipt Date:
AUCKLAND COUNCIL 27 FEB 2014

Submitter details

Full Name of Submitter or Agent (if applicable)
Mr/Mrs/Miss/Ms (Full Name) **Lee Warwick Short**

Organisation Name (if submission is on behalf of Organisation)

Democracy Action

Address for service of the Submitter

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Email:	democracyaction@xtra.co.nz
I live in the following Local Board area (if known)	Orakei
Contact Person: (Name and designation if applicable)	Lee Short

Scope of submission

This is a submission to: Proposed Auckland Unitary Plan

Introduction

Democracy Action Auckland was established 2 years ago by a group of citizens concerned about the erosion of democratic principles in the governance of Auckland and the Hauraki Gulf. I write as secretary of the group.

In this submission we have commented on a narrow range of matters relating to Democracy Action's core interests:

The purpose of the Resource Management Act (RMA) which the Auckland Unitary Plan is prepared under is 'to promote the sustainable management of natural and physical resources'. However, there are passages within the Proposed Auckland Unitary Plan which go far beyond what is required to meet the terms of the RMA. We believe the Auckland Unitary Plan is being used as a vehicle to promote a political programme, which would result in significant constitutional change. This is most certainly neither the intent nor the purpose of the RMA.

The plan speaks of partnership arrangements, the transfer of powers and/or establishment of joint management agreements with Mana Whenua. The management of Auckland's natural and physical resources would be transferred, in part or even in some cases wholly, to one group of citizens, not answerable in any way to the general public or with any obligations to the public welfare.

Accepting such provisions into the plan would have a serious impact, not only on the democratic rights of citizens who are not members of local iwi, but also on the council's ability to act in the best interests of all Auckland citizens.

Therefore, Democracy Action opposes all provisions in the Proposed Auckland Unitary Plan (PAUP) calling for partnership arrangements and agreements, the transfer of powers and/or establishment of joint management agreements.

The following pages outline the changes sought to the draft Unitary Plan.

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The specific provisions that our submission relates to are:

PART 1 - INTRODUCTION AND STRATEGIC DIRECTION»Chapter B: Regional Policy Statement - Kupu Kaupapa ā-Rohe
1 Issues of regional significance - Ngā take matua ā-rohe»1.4 Addressing issues of significance to Mana Whenua

PART 1 - INTRODUCTION AND STRATEGIC DIRECTION»Chapter B: Regional Policy Statement - Kupu Kaupapa ā-Rohe
5 Addressing issues of significance to Mana Whenua - Ngā take matua a ngā Ahikā-roa mai i tawhiti»5.1 Recognition of Te Tiriti o
Waitangi partnerships and participation – Policy 3 and Policy 4

PART 2 - REGIONAL AND DISTRICT OBJECTIVES AND POLICIES»Chapter C: Auckland-wide objectives and policies»5 Natural
resources»5.15 Water»5.15.1 Water quality and integrated management Policy 5

PART 2 - REGIONAL AND DISTRICT OBJECTIVES AND POLICIES»Chapter C: Auckland-wide objectives and policies»5 Natural
resources»5.15 Water» 5.15.2 Water quantity, allocation and use Policy 11

Submission

These provisions contain proposals which go far beyond the purpose of the Resource Management Act (RMA) i.e. - 'to promote the sustainable management of natural and physical resources'. The RMA requires that those making decisions under the RMA must *take into account* the principles of the Treaty of Waitangi. The requirement to take into account the principles of the Treaty of Waitangi means that those with statutory functions under the RMA should be informed of, and actively consider, the concerns and needs of tāngata whenua. However, the proposals such as those listed below go much further than the requirement to 'take into account', 'be informed of', and 'actively consider'.

PART 1 - INTRODUCTION AND STRATEGIC DIRECTION»Chapter B: Regional Policy Statement - Kupu Kaupapa ā-Rohe

1 Issues of regional significance - Ngā take matua ā-rohe»1.4 Addressing issues of significance to Mana Whenua

Decision-making, environmental governance, partnerships and participation

'It is important to build stable and equal partnerships which enable Mana Whenua to actively and meaningfully participate in the management of natural resources'.

We oppose this provision

5. Addressing issues of significance to Mana Whenua - Ngā take matua a ngā Ahikā-roa mai i tawhiti»5.1 Recognition of
Te Tiriti o Waitangi partnerships and participation
Policy 3:

'Recognise and take into account partnership arrangements and agreements between Mana Whenua and the council when making resource management decisions'.

Policy 4:

'Enable the transfer of powers and/or establishment of joint management agreements for certain functions relating to the development and management of ancestral lands, water, air, coastal sites, wāhi tapu and other taonga, and the sustainable management of natural and physical resources, where an iwi authority:

- a. has an ancestral connection or mana over a resource
- b. has a clear mandate to represent the interests of that iwi or hapū
- c. can demonstrate the ability to fulfill the requirements of the RMA, whether directly or by outsourcing'.

We oppose these provisions

Reasons for opposing the provisions listed above:

There are three aspects mentioned in those passages which combined would hand over significant powers, currently exercised for the public benefit, to the leaders of one sector of the population.

- o 'Ancestral lands, water, air, coastal sites' are not defined in the RMA. Ancestral lands are not necessarily just lands Maori own now, but could be any lands with which they have an ancestral connection, which is just about everywhere. Arguments have been presented and accepted that because Maori once owned all of New Zealand then all land is ancestral land.

- 'Natural and physical resources' are defined in the Resource Management Act to include *land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced) and all structures*. The management of natural and physical resources has proven to be open to a very wide interpretation. The Independent Maori Statutory Board (IMSB) was legislated into existence with the 'Super City' legislation, with the right to send one or two delegates, with full voting powers, to any council committee meeting and dealing with "the management and stewardship of natural and physical resources". This has resulted in IMSB being currently represented on 16 of the 19 Council committees. Legal advice obtained by the board chairman supported the IMSB's view that all Auckland Council committees, panels and forums meet those criteria.
- If you combine the scope of these two aspects i.e. ancestral lands, and the management of natural and physical resources, with the nature of policies such as 'partnership arrangements', 'the transfer of powers', and 'joint management agreements', iwi authorities would gain extensive powers of governance over much of Auckland, unelected by and unaccountable to the wider community.

Such arrangements, whereby council authorities accountable to the public surrender rights and powers to a non-elected group of citizens, undermines both the principle of equality of citizenship, and the democratic system it supports. The inevitable consequence of Council and Mana Whenua partnerships is the inferior status of all citizens who are not members of local iwi.

There is also the high likelihood of potential conflicts of interest with iwi being both regulatory decision makers and also commercial developers.

And very importantly, the Council has no mandate from the citizens of Auckland for such a major constitutional change

Decision sought

That all proposals for shared governance - partnership arrangements and agreements, the transfer of powers and/or establishment of joint management agreements etc. - contained within the PAUP be withdrawn.

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If Auckland Council intends to pursue such anti democratic arrangements it has a moral duty to the citizens of Auckland to hold a referendum asking whether the general population of Auckland agree that the governance of our physical and natural resources be shared in partnership with Mana Whenua.

PART 2 - REGIONAL AND DISTRICT OBJECTIVES AND POLICIES»Chapter C: Auckland-wide objectives and policies»5 Natural resources»5.15 Water»5.15.1 Water quality and integrated management Policy 5
'Develop catchment specific objectives and limits for freshwater with Mana Whenua through community consultation, scientific research and mātauranga Māori, to replace the MCI guideline and to give effect to the NPSFM'

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PART 2 - REGIONAL AND DISTRICT OBJECTIVES AND POLICIES»Chapter C: Auckland-wide objectives and policies»5 Natural resources»5.15 Water» 5.15.2 Water quantity, allocation and use Policy 11
'Develop catchment specific limits for freshwater quantity with Mana Whenua, through community consultation, scientific research and mātauranga Māori'

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We oppose these provisions

Reasons

These two policies are further instances of shared decision making governance between representatives of our democratically elected governing bodies and a group of citizens who are not answerable to the general public or with any obligations to the public welfare. Good water governance requires not only stakeholder participation, but more importantly, accountability. These proposals go much further than the obligation to 'take into account', 'be informed of', and 'actively consider' the voice of tāngata whenua.

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Decision sought

That these two proposals for the shared governance of our freshwater resources be withdrawn.
 And that our freshwater resources are managed by agencies which are accountable to all citizens equally.

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I support the specific provisions identified above No

I oppose the specific provisions identified above Yes

I wish to have the provisions identified above withdrawn Yes

The reasons are stated above:

I seek the following decision from Auckland Council:

Accept the Proposed Plan No

Accept the Proposed Plan with amendments as outlined below No

Decline the Proposed Plan Yes

If the Proposed Plan is not declined, then amend it as outlined above. Yes

I wish to be heard in support of my submission Yes

If others make a similar submission, I will consider presenting a joint case with them at a hearing No

Telephone 021 02832548

Please note that your contact details and phone number will be publicly available under the Resource Management Act 1991, as any further submission supporting or opposing this submission is required to be forwarded to you as well as the council.

27 February 2014

Signature of Submitter

Date

(or person authorised to sign on behalf of submitter. A signature is not required if you make your submission by electronic means)

Notes to person making submission:

If you make your submission by electronic means, the email address from which you send the submission will be treated as an address for service.

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6 (4) of Schedule 1 of the Resource Management Act 1991.

I could not gain an advantage in trade competition through this submission

If you could gain an advantage in trade competition through this submission please complete the following:

I am am not directly affected by an effect of the subject matter of this submission that:

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition