

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of a submission in respect of the **PROPOSED WAIKATO DISTRICT PLAN** by **AMBURY PROPERTIES LIMITED** pursuant to Clause 6 of Schedule 1 of the Act seeking the rezoning of land at Ohinewai

## **STATEMENT OF EVIDENCE OF JOHN BLAIR OLLIVER**

### **1. INTRODUCTION**

1.1 My name is John Blair Olliver. I am a planning consultant and I am a founding director of Bloxam Burnett & Olliver Ltd ('BBO'), a firm of consulting engineers, planners and surveyors based in Hamilton.

#### **Qualifications and experience**

1.2 I have a Bachelor of Arts (1977) from Victoria University and Diploma of Town Planning (1980), from the University of Auckland.

1.3 I have 38 years professional planning experience and I am a Member of the New Zealand Planning Institute. I am a Ministry for the Environment accredited hearings commissioner.

1.4 My recent experience relevant to this rezoning submission is as follows:

- (a) As s42A reporting officer for Waikato District Council on a private plan change to rezone land to Residential on Rangitahi Peninsula in Raglan. The site was a masterplanned development and included significant cultural values and open space and coastal access issues.
- (b) Providing evidence in support of submissions by Titanium Park Ltd seeking zoning of additional land as Airport Business zone at Hamilton Airport. The evidence addressed strategic planning issues including consistency with Future Proof and the Waikato Regional Policy Statement ('WRPS').

- (c) Responsibility for preparing a private plan change (Plan Change 10) and notice of requirement to the Waipa District Plan to alter designations, amend staging rules and related amendments to plan provisions to authorise changes in access to Hamilton Airport. This involved staged improvements to the transport network as development progressed.
- (d) Providing evidence in support of Plan Change 2, a private plan change to the Hamilton City District Plan to rezone a 62ha industrial-zoned site to a mixture of Residential, Business and Major Facilities (tourism and recreation) zones. It is a masterplanned development on the fringe of the city and particular issues were consistency with Future Proof, the WRPS and the National Policy Statement on Urban Development Capacity 2016 ('NPS-UDC').

### **Involvement in the Sleepyhead Estate project**

- 1.5 I was approached by Ambury Properties Ltd ("APL") in August 2018 for planning advice on how to best consent or otherwise authorise develop the property they were in the process of acquiring at Ohinewai. They advised they wished to relocate The Comfort Group ("TCG") manufacturing facilities out of Auckland, together with supporting residential and commercial development.
- 1.6 I advised them that the appropriate approach would be to rezone the land rather than seek resource consents. As the Proposed Waikato District Plan ('PDP') had been notified in July 2018 with submissions closing on 9 October 2018, I advised that the notification of the PDP precluded a private plan change application. Therefore, the best approach would be to seek a rezoning of the site through a submission on the PDP.
- 1.7 I subsequently assisted with preparation of a submission incorporating rezoning, together with an Ohinewai Structure Plan, and lodged it on the PDP. Since that time I have been involved in scoping and managing technical investigations to support the rezoning, engagement with affected parties and stakeholders and management of the preparation of information requested to be supplied to Waikato District Council ('WDC') by 6 December 2019.
- 1.8 I last visited the site on 30 January 2020 when I accompanied a site visit by Waikato Regional Council ('WRC') and New Zealand Transport Agency ('NZTA') staff and advisers.

- 1.9 The purpose of this evidence is to evaluate the consistency of the rezoning with the applicable strategic planning framework. It is also to recommend amended plan provisions to address issues that have arisen since the rezoning submission was lodged.

**Purpose and scope of evidence**

- 1.10 Specifically, my evidence will cover:

- (a) Context and background (Section 3).
- (b) An overview of APL's rezoning submission (Section 4).
- (c) Relevant statutory provisions (Section 5).
- (d) Strategic analysis (Sections 6 - 9).
- (e) Comment on issues raised by submitters relevant to my area of expertise (Section 10).
- (f) Comment on the Council Officer's Report (Section 11).
- (g) Describe my proposed amendments to plan provisions (Section 12).
- (h) Provide a brief conclusion (Section 13).

- 1.11 A summary of my evidence is contained in Section 2.

- 1.12 My evidence relies on the evidence of the following technical experts:

- (a) Jonathan Broekhuysen – urban design / masterplanning.
- (b) Robert Quigley – social effects.
- (c) Phil Osborne – economics.
- (d) Tim Heath – economics.
- (e) Brent Wheeler – economics.
- (f) Robert White – water supply and wastewater disposal.
- (g) Ben Pain – earthworks and civil design.
- (h) Pranil Wadan – stormwater.
- (i) Ajay Desai – flooding.

- (j) Dave Stafford – groundwater.
- (k) Carl O’Brien – site contamination.
- (l) Cameron Lines – coal resources.
- (m) Nick Speight – geotechnical / effects of coal mining.
- (n) Matthew Gainsford -archaeological.
- (o) Ben Lawrence – acoustics.
- (p) Michael Graham – landscape.
- (q) Chad Croft – ecology.
- (r) Cameron Inder – transport.

1.13 My evidence addresses strategic and statutory planning matters and only addresses environmental effects to the extent that such analysis is necessary to inform my opinion on the strategic issues. As regards potential effects, my evidence should also be read alongside the evidence of Stuart Penfold which addresses environmental effects in more detail. For completeness I attach as **Attachment A** a copy of the Key Environmental Issues table I produced in accordance with paragraph 8.4 of the Planning JWS and referred to by Mr Penfold. That table is the ‘red line’ version including track changes from the other planners. It confirms the relatively small number of key environmental issues.

#### **Expert Witness Code of Conduct**

1.14 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2014) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my evidence I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **2. SUMMARY OF MY EVIDENCE**

2.1 This summary addresses planning issues but not background and context, which need not be repeated.

- 2.2 The property-owning entity of The Comfort Group Limited, Ambury Properties Limited lodged a submission on the PDP, seeking a rezoning from Rural to a mix of Industrial, Business and Residential zones applying across the Site. The Structure Plan will also be embedded into the PDP to guide development over time.
- 2.3 The rezoning submission is subject to a range of the provisions in the Resource Management Act 1991 ('RMA'), including:
- (a) The 'sustainable management' purpose and principles in Part 2 (sections 5 – 8); of the Act;
  - (b) Section 31 - functions of territorial authorities;
  - (c) Sections 32 and 32AA requirement for evaluation reports;
  - (d) Section 74 - matters to be considered; and
  - (e) Part 1 of Schedule 1 -requirements relevant to plan processes.
- 2.4 Sections 32 and 32AA require an evaluation that must consider the efficiency and effectiveness of a proposal, taking into consideration benefits and costs and the risk of acting or not acting where there is uncertain information.
- 2.5 Under the broader assessment of the benefits and costs of the environmental, economic, social and cultural effects of the rezoning, section 32(2) specifically requires assessment of the opportunities for economic growth and employment to be provided or reduced. The 2019 AEE identified a significant economic benefit to the Ohinewai/Huntly area and the wider district from the \$1billion investment (now revised to \$1.3billion) and the significant number of jobs, now estimated at 2,600<sup>1</sup>. The evidence of Mr Quigley confirms the significant social benefits for the deprived Huntly/Ohinewai area from this injection of investment and employment.<sup>2</sup>
- 2.6 With a project of this scale and complexity, there will always be some uncertainty of information. The risk of not acting (i.e. not rezoning the land) is that TCG will be unable to rationalise, expand and improve productivity and will be required to find a site somewhere else which would be very difficult. As a result, the economic, social and employment opportunities would be entirely lost. This is the opportunity cost of the rezoning.

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1 Economics JWS.

2 Statement of evidence of Robert Quigley paragraph 2.6.

- 2.7 There are some risks of acting (i.e. rezoning the land). There is a minor risk that a long-term water and wastewater solution is not in place by the years 7-9 of development when the capacity of the Huntly plants may be exhausted. However, that risk is addressed by the proposed staging rules in the plan provisions that will effectively prevent further development beyond the capacity of the infrastructure, together with the PDA currently being prepared.
- 2.8 The key strategic framework in which a decision is to be made is in the objectives and policies of the WRPS and subservient planning instruments including Future Proof 2017 and Waikato 2070, the Waikato District Growth Strategy. The key objectives and policies were agreed in the Planning JWS.
- 2.9 The Vision and Strategy for the Waikato River is a fundamental aspect of the WRPS that must be given effect to. The overall vision is captured in clause 2.5.1 which is:

*'Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn are all responsible for restoring and protecting the health and wellbeing of the Waikato river, and all it embraces, for generations to come.'*

- 2.10 In my opinion, the concept of restoration and protection means to preserve and improve, which is interpreted as 'betterment' for the river. That is, rather than maintaining the status quo, there is a need to take steps to improve it. This is usually applied to the physical state of the River, with particular emphasis on the water quality improvements. However, the objectives in section 2.5.2 are much wider than that, so should be given weight in addition to water quality.
- 2.11 As this is a rezoning submission, it does not directly result in physical development and the associated effects, positive and negative. Rather, it enables development, with the development form being guided by District Plan provisions, and the future effects being governed by future detailed design and resource consents.
- 2.12 This broad approach is consistent with the Vision, whereby the physical health of the river ('abundant life') sits alongside the non-physical 'prosperous communities' and the shared responsibilities for restoring and protecting it.
- 2.13 The unanticipated nature of the OSP development challenges the responsiveness of the relevant planning instruments, and in particular the

WRPS objectives and policies that reflect the Future Proof land use pattern. In an ideal world, the sequence of strategic and spatial planning would be undertaken first, and the subsequent development proposal neatly fitted into it. However, that is not always feasible, given the dynamic and unpredictable nature of urban development in a growing region creates challenges.

2.14 Policies 6.14(c) and 6.14(g) of the WRPS create flexibility for land use to depart from the Future Proof pattern provided that certain criteria and principles are met. The WRPS clearly envisages situations in which the land areas contained in the relevant tables can be varied by way of alternative land release or that new industrial development could locate outside the strategic industrial nodes. The Planning JWS confirmed this<sup>3</sup>. The alternative land release criteria in Method 6.14.3 are specifically designed to address this issue and form a key evaluation tool for the OSP.

2.15 Given that the purpose of Policy 6.14 and Implementation Method 6.14.3 is to provide flexibility it is not surprising that the wording of the provisions are more enabling than other policies and methods. The words 'should predominantly' rather than 'shall' are used together with 'consistent with'. Section 6A the Development Principles, also says '*New development should ...*', whereas it would have said 'shall' if a prescriptive approach was intended.

2.16 In my opinion, the term 'consistent with' means 'compatible with' or 'the same nature as'.

2.17 There are twenty development principles but in my opinion the greatest emphasis should be on those that closely reflect and implement the policies and are most relevant to the circumstances of the rezoning. Therefore I refer to principles a) and b) as follows:

a) *Support existing urban areas in preference to creating new ones.*

2.18 The land requirement of the OSP is too large to be accommodated in Huntly or any of the other towns in the vicinity. Although there is currently a large area of rural land between Huntly and Ohinewai, it is only 2.3km from Huntly's future urban limits, which coincide with the Expressway. This means it is sufficiently close to have many synergies and interactions with the township through schooling, shopping, recreation and social services. In that respect, Ohinewai will not be a 'dormitory' suburb where large travel distances are required to access these services; the distance is less than for many suburbs in a medium sized city such as Hamilton where some suburbs

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3 Planning JWS, para 9.19.

are 10km from the CBD . However, it was inevitable that a new urban area has to be created to allow for it.

*b) not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated;*

- 2.19 Based on the expert evidence I conclude that the Waikato Expressway, including the Ohinewai Interchange, can be used safely and efficiently and there is capacity available in the Huntly WWTP and WTP to accommodate the OSP in the medium term and a more strategic solution through the Mid Waikato Servicing Strategy (MWSS) is likely to be in place in the long term. It also makes efficient use of capacity in the NIMT.
- 2.20 Future Proof 2017 is a relevant document to be taken into account when considering the OSP and whether it gives effect to the WRPS. Therefore, I have also assessed the rezoning against the 'Guiding Principles' in Future Proof 2017, which are similar to the Development Principles but are more up to date, and concluded it is consistent with them.
- 2.21 Section 7.5 of Future Proof, 'A Responsive Approach to Development' further reinforces the need for flexibility when applying the settlement pattern in the WRPS. The greater emphasis on settlement pattern flexibility and responsiveness is a key difference in Future Proof 2017 when compared to Future Proof 2009. In my opinion, the OSP is a classic example of a previously unidentified opportunity that will contribute economic, social and cultural benefits, as envisaged by Section 7.5.
- 2.22 Waikato 2070, the Waikato District Growth and Economic Development Strategy, is a very recent (May 2020) document that is relevant. I consider that it carries significant weight because it is up to date and because it was prepared following a submission and hearing process with knowledge of the OSP proposal. It carries less weight than Future Proof because it has not been embedded in the WRPS the way some of Future Proof has been. The OSP is highly consistent with it.
- 2.23 While other non-RMA documents such as the Waikato Area Blueprints and the Hamilton to Auckland Corridor Plan carry less weight, they are in my opinion relevant to the extent they demonstrate the rapidly-changing



strategic planning landscape in the face of higher than expected population and economic growth and unanticipated growth opportunities.

2.24 Based on my evaluation I conclude that the OSP gives effect to the WRPS and is in accordance with Part 2 of the RMA and with the NSP-UDC.

2.25 My conclusion is based on implementation of the recommended plan provisions at **Attachment B** of this evidence, which are designed to address environmental effects and to ensure WRPS policy requirements to match development with infrastructure capacity are met.

### **3. CONTEXT AND BACKGROUND**

3.1 APL is the property-owning entity of TCG. TCG is a third generation New Zealand-owned manufacturing business founded in 1935. TCG is dedicated to building and maintaining a highly skilled and robust local manufacturing capability, using locally sourced components wherever possible.

3.2 TCG's manufacturing operations are currently based at two locations in Auckland, with storage at a third. APL (on TCG's behalf) has been investigating options to consolidate TCG's Auckland operations onto one site. As part of this investigation, APL has searched extensively in Auckland and the Waikato for a suitable site.

3.3 As a major manufacturer that is importing raw materials and distributing and exporting products, TCG wishes to be located adjacent to the North Island Main Trunk railway (NIMT) as it receives and distributes goods through both Auckland and Tauranga Ports. APL was unable to identify any suitable sites adjacent to the NIMT in the Auckland area that were suitable for its needs. The company's needs and the site selection process is described in the evidence of Mr Turner and Mr Gaze.

3.4 TCG has a very strong family-based worker culture, with many families having worked for the company for several generations. TCG's owners, Craig and Graeme Turner, have become increasingly concerned at the inability of its employees and their families to afford housing in Auckland. A major driver of the desire to move out of Auckland is to enhance the ability of their employees to achieve home ownership and the company is considering means to assist selected employees into home ownership, such as shared equity and rent to buy arrangements. This is also described in the evidence of Mr Turner and Mr Gaze.

- 3.5 The Ohinewai/Huntly area is attractive to TCG as a result of the strong local employment base. They are committed to a wide-ranging technical training programme covering IT, chemical and mechanical engineering, trades and marketing. They propose to work with local schools, polytechs and other educational institutions, and Waikato-Tainui to develop the appropriate technical and professional staff skills within the local labour force. A memorandum of understanding has been entered into between TCG and Tangata Whenua that formalises the commitment of the parties to working together.
- 3.6 APL has found a suitable site in Ohinewai that is well positioned within the 'golden triangle' between the centres of Auckland, Tauranga and Hamilton and with excellent access to State Highway 1 and the NIMT. The site is approximately 178 hectares in size and bounded by Tahuna Road, Lumsden Road and Balemi Road, and is adjacent to the Lake Rotokawau reserve.
- 3.7 To achieve their aspirations and to facilitate and inform a suitable planning framework, APL has developed a Masterplan for the site that sets out the conceptual development form. The Masterplan provides the basis for an integrated development that will provide for industrial, business and residential activities across the site. The Masterplan has also informed the Structure Plan to be used to guide the development on the site.
- 3.8 The proposed development incorporates the following:
- (a) 68ha of industrial zoned land, including 37ha for the TCG Sleepyhead Factory.
  - (b) 13ha of business / commercial zoned land for a service station, discount factory outlet shops, community facilities and a small amount of convenience retail.
  - (c) 52ha of residential land for up to 1100 homes, with the majority for sale on the open market and a number for TCG employees.
  - (d) 55ha of public open space including stormwater management areas, recreational facilities, ecological enhancement areas and other community areas.

#### **4. OVERVIEW OF REZONING SUBMISSION**

- 4.1 To enable the vision of TCG to be realised and to take advantage of the PDP process, APL has lodged a submission on the PDP, seeking a rezoning from Rural to a mix of Industrial, Business and Residential zones applying across the Site. The Structure Plan will also be embedded into the PDP to guide development over time.
- 4.2 The purpose of the submission is to provide a planning framework within the PDP that enables development to occur in Ohinewai consistent with the Ohinewai Structure Plan ('OSP'). More specifically, the amendments seek to provide a planning framework and a set of plan provisions to enable the development of the Sleepyhead Estate.
- 4.3 To enable Council to assess the proposed re-zoning submission, a section 32AA evaluation was completed in December 2019 that assessed the changes sought to the PDP.
- 4.4 The evaluation of options has concluded that rezoning the land through its submission on the PDP is the most efficient and effective method of implementing the development outcomes sought by APL. The changes can be readily accounted for within the PDP via rezoning and embedding a Structure Plan and supporting changes to text within discrete sections of the PDP. The changes are consistent with the policy and rule framework of the PDP.

#### **5. STATUTORY AND PLAN FRAMEWORK**

- 5.1 The rezoning submission is subject to a range of the provisions in the Resource Management Act 1991 ('RMA'), including:
- (a) The 'sustainable management' purpose and principles in Part 2 (sections 5 – 8); of the Act;
  - (b) Section 31 - functions of territorial authorities;
  - (c) Sections 32 and 32AA requirement for evaluation reports;
  - (d) Section 74 - matters to be considered; and
  - (e) Part 1 of Schedule 1 - requirements relevant to plan processes.

### **Section 31**

- 5.2 Under s 31(1) of the RMA, WDC as a territorial authority has a number of functions for the purpose of giving effect to the RMA in its district, including the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the Waikato District.

### **Section 32 evaluation**

- 5.3 As the rezoning submission seeks to make changes to the notified PDP a section 32AA evaluation is required. That evaluation is to be undertaken in accordance with section 32 (1)-(4).
- 5.4 The evaluation must examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA under subsection 32 (1)(a), and whether the provisions in the proposal (i.e. policies, rules and other methods) are the “most appropriate” way of achieving the objectives under section 32(1)(b).
- 5.5 Only one new objective is proposed as part of the plan provisions sought by the APL submission. The following is proposed to be inserted into Chapter 4, Urban Environment:

*'4.1.19(a) Development at Ohinewai is concentrated in Ohinewai East, providing a strategically significant area for industrial growth with supporting commercial and residential components.'*

- 5.6 The additional policy is necessary to provide a suitable framework for policies and rules as Ohinewai is not referred to elsewhere as an area of urban growth and development in the context of the towns referred to in Chapter 4.
- 5.7 In my opinion this separate objective is justified given that the OSP is a greenfields development whereas all of the other policies in Chapter 4 apply to existing towns. In my opinion, this objective represents the most appropriate way to achieve the purpose of the RMA. As set out elsewhere in this evidence, the OSP provides for significant improvements to people and communities social, economic and cultural wellbeing, while avoiding or mitigating adverse effects on the environment through design and district plan provisions.

- 5.8 The section 32 evaluation must also consider the efficiency and effectiveness of a proposal, taking into consideration benefits and costs and the risk of acting or not acting. A section 32 evaluation of alternatives, costs and benefits was provided in section 7 of the Assessment of Environmental Effects and section 32AA report dated December 2019 ('2019 AEE').
- 5.9 Under the broader assessment of the benefits and costs of the environmental, economic, social and cultural effects of the rezoning, section 32(2) specifically requires assessment of the opportunities for economic growth and employment to be provided or reduced. The 2019 AEE identified a significant economic benefit to the Ohinewai/Huntly area and the wider district from the \$1billion investment (now revised to \$1.3billion) and the significant number of jobs, now estimated at 2,600<sup>4</sup>. The evidence of Mr Quigley confirms the significant social benefits for the deprived Huntly/Ohinewai area from this injection of investment and employment<sup>5</sup>.
- 5.10 Costs have been identified in the form of visual impacts, social impacts of change from the status quo and potential environmental costs if the potential adverse effects of the development are not adequately avoided, remedied or mitigated. As the project (including any necessary infrastructure) is privately funded by TCG there are no unanticipated costs for public authorities. Any local authority investment on the basis of wider community benefits will be the subject of a private development agreement (PDA), currently being prepared, so will be anticipated as part of that agreement.
- 5.11 The evidence of Mr Heath, Mr Osborne and Dr Wheeler have quantified the costs and benefits to the extent practicable and confirm the economic benefits far outweigh any costs<sup>6</sup>.
- 5.12 Section 32(2) also requires an assessment of the risk of acting or not acting where there is uncertain information. With a project of this scale and complexity, there will always be some uncertainty of information. The risk of not acting (i.e. not rezoning the land) is that TCG will be unable to rationalise, expand and improve productivity as described in Mr Turner's evidence<sup>7</sup> and will be required to find a site somewhere else which, as set out in Mr Gaze's evidence, would be very difficult<sup>8</sup>. As a result, the economic, social and

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4 Economics JWS.

5 Statement of evidence of Robert Quigley paragraph 2.6.

6 Statements of evidence of Tim Heath, paragraph 9.13; Phil Osborne, paragraph 10.2; and Brent Wheeler paragraph 11.4.

7 Statement of evidence of Craig Turner, Section 4.

8 Statement of evidence of David Gaze evidence paragraphs 3.5-3.9.

employment opportunities would be entirely lost. This is the opportunity cost of the rezoning as described in Dr Wheeler's evidence<sup>9</sup>.

- 5.13 I acknowledge there are some risks of acting (i.e. rezoning the land). There is a minor risk that a long-term water and wastewater solution is not in place by the years 7-9 of development when the capacity of the Huntly plants may be exhausted. However, that risk can be addressed by the proposed staging rules in the plan provisions that will effectively prevent further development beyond the capacity of the infrastructure, together with the PDA currently being prepared.
- 5.14 This could potentially delay the later stages of development, but by that time substantial economic and employment benefits would have been realised. Because the rezoning is being driven by a single entity, TCG, there is a higher level of certainty that their Sleepyhead development will take place, than if it was a more speculative development. In addition, the rezoning is occurring in the knowledge that the longer term water and wastewater issues are being addressed comprehensively through the Mid-Waikato Servicing Strategy ('MWSS'). This initiative was identified before the OSP was developed, which demonstrates that this issue already existed for towns in the location, and the OSP can build on it.
- 5.15 There is also a risk that development will be slower than anticipated due to the Covid-19 induced recession. However, this will just mean that the benefits will be less, or realised over a longer time frame. They will not be completely lost.
- 5.16 Indeed, the opportunity cost that would arise if the rezoning was declined (in favour of the hope that development may occur elsewhere in accordance with more 'orthodox' planning), is further heightened given the need to stimulate the economy following the economic impact of Covid-19.
- 5.17 A key aspect of the section 32 evaluation is that the rezoning does not require any amendments to the high-level strategic directions and objectives in section 1.12 of the PDP, and can rely on them. The rezoning is broadly consistent with them as they in turn largely reflect the Future Proof Growth Strategy, which I address in detail in section 6 below.
- 5.18 In addition, there was no need to amend objectives and policies for the Industrial, Business and Residential zones; the proposal can be accommodated within the existing policy framework. As noted, the only

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9 Statement of evidence of Brent Wheeler, paragraph 10.3.

policy amendment is to introduce a specific set of Ohinewai objectives and policies in the Urban Environment Section, to provide recognition of the intent for urbanisation of Ohinewai, in the same way that other settlements are recognised in that section.

- 5.19 In my opinion, the rezoning and OSP are a good fit in terms of being able to be inserted into the PDP with minimal impact on the Plan as a whole, while also contributing to the achievement of wider objectives within it.
- 5.20 In terms of section 32 as a whole, it is my opinion that the economic and employment growth and associated social and cultural benefits of the proposed rezoning far outweigh the potential costs and associated risks, which are able to be mitigated.

**Section 75 – plan and policy provisions to be given effect to**

- 5.21 In addition to setting out what the PDP must and may state, section 75(3) states that the PDP must 'give effect to' (relevantly):
- a) any national policy statement;
  - b) a national planning standard; and
  - c) any regional policy statement.
- 5.22 The relevant national policy statements comprise:
- d) National Policy Statement for Urban Development Capacity ('NPS-UDC') and; the
  - e) National Policy Statement for Freshwater Management 2014 ('NPS-FM').
- 5.23 The relevant regional policy statement is the Waikato Regional Policy Statement ('WRPS'), which became operative in 2016 and was most recently updated on 19 December 2018 to insert Objective 3.27 as directed by the NPS-UDC.
- 5.24 Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) is part of the WRPS.
- 5.25 In addition, the PDP must not be inconsistent with a regional plan for any matter specified in s 30(1) of the RMA, which relates to the functions of regional councils under the RMA. The relevant regional plan is the Waikato Regional Plan ('WRP') Those matters include water quality and natural

hazards. I consider those matters in section 6 of this evidence: strategic analysis.

## **Part 2 – Purpose and Principles of the RMA**

- 5.26 As identified above, the rezoning must be in accordance with the provisions of Part 2 of the RMA. The RMA has a singular purpose which is to promote the sustainable management of natural and physical resources (section 5).
- 5.27 The OSP site is a natural and physical resource, and therefore it is incumbent on APL to demonstrate how that resource will be sustainably managed. The Supreme Court in *Environmental Defence Society Inc. vs the New Zealand King Salmon Co Ltd*<sup>10</sup> has said that the definition of sustainable management in s 5(2) of the RMA should be read as an "integrated whole", and that the use of "while" between the parts of the provision that are seen to be enabling, supporting growth, development and improvement of facilities and people's way of life and the restrictions inherent in subsections (a) – (c) means that they must be achieved "at the same time as" each other.
- 5.28 Traditionally, the Courts had taken an 'overall broad judgement' approach to the assessment of plans and submissions against the various matters in sections 5, 6, 7 and 8 of the RMA, in addition to the other statutory requirements. The Supreme Court in *King Salmon*, in the context of a plan change, held that there was no need to refer back up the hierarchy of planning instruments to Part 2 to determine a plan change, unless there was some invalidity, uncertainty, or incomplete coverage in the documents promulgated under it, because other high level planning instruments (in that case the New Zealand Coastal Policy Statement) were deemed to have given effect to Part 2 at the national, regional and district level.
- 5.29 One possible challenge to the validity of a higher-order document is that where a document has been prepared prior to the release of a higher-order planning instrument (such as an NPS or RPS), it cannot be assumed to give effect to it and so recourse back up through the planning hierarchy (and, potentially, to Part 2) is appropriate.
- 5.30 The reference to "incomplete coverage" acknowledges that there may be instances in which the higher-order planning document does not "cover the field", and so a decision-maker will have to consider whether Part 2 provides assistance in dealing with the matters not covered. To the extent that any

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10 *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] 1 NZLR 593 (SC).



provisions in a higher-order planning document are uncertain, reference to Part 2 may well be justified to assist in a full interpretation of that provision.

- 5.31 As such, the role of Part 2 in decision-making processes has changed; however, the statutory requirement for plans to be developed “in accordance with” Part 2 remains.
- 5.32 In my opinion, the WRPS and the PDP have generally been prepared in accordance with the matters in Part 2. However, there are two aspects that I consider are categorised as ‘incomplete coverage’ and therefore justify some recourse to Part 2.
- 5.33 First, the NPS-UDC post-dates the WRPS and some aspects of that NPS, such as preparation of a Future Development Strategy, have not been completed and any outcomes incorporated in the WRPS. The intention is to complete a Future Development Strategy as part of Phase 2 of the Future Proof Update<sup>11</sup> which was programmed for 2020. The WRPS is therefore incomplete in terms of its coverage of urban development, insofar as giving effect to the NPS-UDC is concerned.
- 5.34 Reference to the NPS-UDC is important in this situation where the alternative land release criteria in the WRPS are being considered. The NPS-UDC has a focus on responsive urban environments and adapting policy frameworks to meet emerging needs. The objectives promote planning decisions and practices that enable urban development to provide for people’s social, economic and cultural wellbeing (Objective OC1) and to respond to evidence about urban development and people and communities in a timely way (Objective OC2). In my opinion these objectives provide further support for a flexible approach to the land allocations in the WRPS.
- 5.35 Second, the settlement pattern in the WRPS is now somewhat dated. It was notified in 2010, with the urban development aspects relying on the Future Proof Growth Strategy and Implementation Plan 2009 (‘Future Proof 2009’). Future Proof 2009 has now been superseded by Future Proof 2017, although the ‘settlement pattern’ has not been changed. This disconnect between the RPS and Future Proof 2017 leads to uncertainty in the WRPS in terms of the way its built environment provisions should be given effect to in a district plan. In my opinion, this also justifies recourse to Part 2.

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11 Future Proof 2017, p17.

## Part 2 of the RMA

- 5.36 In my opinion the section 5 sustainable management purpose should also be referred to for assistance in interpreting the alternative land release criteria in the WRPS as I set out in the content of my evaluation of these criteria in section 6 of this evidence, because of the 'incomplete coverage' point I have referred to above.
- 5.37 Because Part 2 is relevant when interpreting the WRPS alternative land release provisions the focus on my assessment is on section 5. In my opinion, the evidence of Mr Heath, Dr Wheeler and Mr Osborne confirms that the OSP will enable people and communities (particularly the Huntly / Ohinewai communities) to provide for their economic and social wellbeing as a result of the substantial injection of economic activity through construction and ongoing operation of the land uses. The joint witness statement ('JWS') of the economic experts confirmed that it is new economic growth, not just redistributing expected economic growth.<sup>12</sup>
- 5.38 The JWS of the social impact experts confirmed that:
- 'the scale of estimated employment opportunities has the potential to generate positive social impacts at the individual, family and community level' and would 'likely have positive effects on the local businesses'.<sup>13</sup>*
- 5.39 Mr Quigley's evidence confirms that the positive social impacts will occur in some of the most socially-deprived areas in New Zealand, with Huntly East and Huntly West scoring nine out of ten (out of a ten-point scale) on the NZ Deprivation Index and Ohinewai and Rangiriri scoring seven and eight respectively<sup>14</sup>.
- 5.40 The potential for cultural wellbeing to be enhanced is captured in the Kaitiaki Environmental Values Assessment ('KEVA') prepared by the Tangata Whenua Governance Group ('TWGG'), as addressed in Mr Gaze's evidence.
- 5.41 These benefits are achieved at the same time as adverse effects on the environment are avoided or mitigated through design processes and district plan provisions that are designed to address potential adverse effects. These include measures to avoid or mitigate transport safety effects, and provisions

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12 Economics JWS page 2.

13 Social JWS page 2.

14 Statement of evidence of Robert Quigley paragraph 5.9.

to mitigate potential adverse visual, landscape, ecological and water quality effects. These effects are described in more detail in Mr Penfold's evidence.

5.42 I also conclude, based on expert evidence, that:

- (a) Sustaining the potential of natural and physical resources to meet the reasonable needs of future generation (section 5(2)(a)); and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems (section 5(1)(b)) –

can be managed by way of proposed plan provisions. This takes into account the importance of the health and wellbeing of the Waikato River as a key natural resource as reflected in the Vision and Strategy discussed below.

5.43 In my opinion, the other Part 2 matters relevant to the proposed rezoning are:

- (a) Section 6(e) 'the relationship of Maori and their culture and traditions with the ancestral lands, water, sites waahi tapu and other taonga' is to be recognised and provide for.
- (b) Section 7(a) – the need to have particular regard to kaitiakitanga.
- (c) Section 8 – principles of the Treaty of Waitangi.

5.44 In my opinion, these provisions have been satisfied via the meaningful engagement that APL has been involved in as reflected in the TWGG that has been established and the opportunities that have been identified to reflect cultural symbolism and traditions through the design of the OSP. These are reflected to the extent practicable, through plan provisions, but that is only part of the process. The engagement will be ongoing for the life of the project. Beyond that, the principles of the Treaty of Waitangi are comprehensively addressed through the Vision and Strategy and other policies in the WRPS that are required to be complied with.

5.45 Section 6 (h) is also relevant in relation to management of flood risk. The evidence of Mr Desai and Mr Wadan have shown the risk can be managed and plan provisions are proposed.

5.46 In my opinion, the only section 7 matters that would influence the proposed rezoning are:

- (a) Section 7(b) – in my view, the proposed development represents a highly efficient use of the resource which this land represents, particularly as compared with its current dairy farming use.
- (b) Section 7(c) and (f) – in my view, the design process and expert evaluation that has been undertaken reflects measure to maintain and enhance amenity values and the quality of the environment (which includes the built environment).

5.47 Again, these issues are addressed through more detailed provisions in the WRPS and WRP such that detailed recourse to section 7 is unnecessary.

### **Te Ture Whaimana – Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010**

5.48 The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 ('Settlement Act') gives effect to the Deed of Settlement entered into by the Crown and Waikato-Tainui in relation to Treaty of Waitangi claims in relation to the Waikato River on 17 December 2009. The Settlement Act has the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for future generations.

5.49 Section 9(2) of the Settlement Act confirms that Te Ture Whaimana, the Vision and Strategy for the Waikato River, applies to the Waikato River and activities within its catchment affecting the Waikato River.

5.50 As well as being deemed part of the WRPS in its entirety pursuant to section 11(1), the Settlement Act prevails over any inconsistent provision in a national policy statement, and sections 11 to 15 of the Settlement Act prevail over sections 59 to 77 of the RMA (which relate to regional policy statements, regional plans and district plans) to the extent to which the content of the Settlement Act relates to matters covered under the RMA.

5.51 I address Te Ture Whaimana more fully in my analysis of the WRPS, but for completeness the Settlement Act also forms part of the statutory framework.

### **National Planning Standards**

5.52 The first set of National Planning Standards were approved under section 58E of the RMA and gazetted on 5 April 2019. These National Planning Standards specify the structure and form for policy statements and plans, specify definitions, and other administrative requirements.

5.53 The standards have been adopted as far as practicable, by using the standard definitions. In that respect, the plan provisions have used the definitions recommended by WDC staff in their section 42A Definitions addendum report dated 30 April 2020, for Hearing 5.

5.54 The plan provisions have also been drafted as stand-alone Ohinewai sections at the end of the three relevant Zone chapters. This will assist in consolidating them into a single 'Precinct' in the future, which is the method the Standards use for a site-specific zoning such as this.

## **6. STRATEGIC ASSESSMENT**

6.1 This and the following sections of my evidence provides a strategic assessment of the OSP / rezoning proposal against all the relevant policy statement, plans or other documents that need to be considered in the context of this proposal. These comprise:

- (a) The WRPS (Section 7);
- (b) The Future Proof Growth Strategy (Section 8);
- (c) A number of other non-RMA documents that need to be considered, namely:
  - (i) Waikato 2070;
  - (ii) Waikato Area Blueprints;
  - (iii) Hamilton to Auckland Corridor Plan; and
  - (iv) Waikato-Tainui Environmental Plan; Tai Tumu, Tai Pari, Tai Ao (Section 9).

## **7. WAIKATO REGIONAL POLICY STATEMENT**

7.1 The Planning Experts JWS<sup>15</sup> set out the agreed key objectives and policies in the WRPS and I evaluate the OSP against them in this section.

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15 Planning JWS, section 9.

## **Chapter 2 - Te Ture Whaimana o Te Awa o Waikato/The Vision and Strategy for the Waikato River**

- 7.2 The Vision and Strategy is set out in Chapter 2 of the WRPS, but there are also several interrelated provisions, being Chapters 8 and 10 and Objective 3.4. The overall vision is captured in clause 2.5.1 which is;

*'Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn are all responsible for restoring and protecting the health and wellbeing of the Waikato river, and all it embraces, for generations to come.'*

- 7.3 This Vision is then followed by a series of objectives in section 2.5.2 and a series of strategies in 2.5.3.
- 7.4 As this is a rezoning submission, it does not directly result in physical development and the associated effects, positive and negative. Rather, it enables development, with the development form being guided by District Plan provisions, and the future effects being governed by future detailed design and resource consents. In my opinion, this leads to a need to take an overall view of the development, providing certainty of outcome as far as practicable through Plan rules, but also taking into account matters that are not able to be incorporated in plan rules because they are outside the scope of the RMA.
- 7.5 This broad approach is consistent with the Vision, whereby the physical health of the river ('abundant life') sits alongside the non-physical 'prosperous communities' and the shared responsibilities for restoring and protecting it.
- 7.6 In my opinion, the concept of restoration and protection means to preserve and improve. Case law<sup>16</sup> has led to this being interpreted as 'betterment' for the river. That is, rather than maintaining the status quo, take steps to improve it. In my experience this is usually applied to the physical state of the River, with particular emphasis on the water quality improvements (objective 2.5.2 k). However, the objectives in section 2.5.2 are much wider than that, so should be given weight in addition to water quality.

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16 *Puke Coal Ltd v Waikato Regional Council* [2014] NZEnvC 223.

- 7.7 Although the rezoning does not have a direct impact on water quality, the OSP will enable development that will lead to improvements to water quality in the catchment. The improvements will comprise:
- (a) An improvement in water quality of stormwater discharge from the site into the adjacent wetland receiving environment as described in Mr Wadan's and Mr Croft's evidence<sup>17</sup>. That evidence confirms that the change in land use from dairy farming to urban will reduce the discharge of key nutrients, being phosphorus and nitrogen, and potentially reverse some of the ecological degradation. While urbanisation carries some risk of discharge of other containments such as heavy metals and sediment, that risk can be minimised by appropriate controls. The details of the controls to minimise risk will be included in subsequent resource consent processes.
  - (b) An improvement in wastewater discharges. As described in the evidence of Mr White and Mr Gaze, the OSP requires significant investment in wastewater disposal infrastructure. A range of options for wastewater treatment and disposal have been considered, but consistent with other urban development in Waikato District, the preferred option is to utilise existing wastewater treatment and disposal infrastructure, rather than establishing additional treatment plants and discharge points.
- 7.8 Given the investment in this infrastructure, the OSP creates an opportunity to rationalise and improve the municipal discharges to the Waikato River in the Mid-Waikato area. The proposal is to connect the site to the Huntly Wastewater Treatment Plan (WWTP) for the medium term development (years 2-7) and then (years 8+) to connect to plants that result from the Mid-Waikato Servicing Strategy (MWSS), as described in Mr White's evidence. These staged connections are to be implemented by District Plan staging rules.
- 7.9 I acknowledge that full certainty of outcomes cannot be provided for long term wastewater and water servicing at this stage. It would be desirable that the MWSS was completed first and then the spatial extent of urban development would follow. However, the OSP is an unanticipated development for the reasons explained in the evidence of Mr Turner and Mr Gaze. Given the benefits of the development, and in the absence of a direct strategy conflict with other plans, it should in my view be accommodated in

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17 Statements of evidence of Pranil Wadan, paragraph 6.13 and Chad Croft paragraphs 6.6, 6.7.

the planning process for servicing in the area. To discard that opportunity because the timing is not right would result in a significant lost opportunity for the River and the community.

- 7.10 Objective 2.5.2 1) promotes improved access to the river. Currently there is very limited public access to this section of the river with a small boat ramp at the river end of Tahuna Rd, but otherwise access and views of the river limited by stopbanks. As part of the network of walking and cycling facilities being developed for the OSP, a walking and cycling connection is proposed along Ohinewai South Rd adjacent to Ohinewai School, and then continuing to Huntly on a path on the stopbank. While most of this path will be on legal road controlled by WDC, the portion that is on the stopbank is on public land administered by WRC. This path is a component in a PDA, which is currently being negotiated with WDC, based on its benefits being wider than for just the OSP. Again, the impetus to establish the path comes from the OSP.
- 7.11 The objectives are not limited to physical improvements. They also include the restoration and protection of the relationship of Waikato-Tainui, the River iwi and communities with the river, including the economic, social, cultural and spiritual relationships (2.5.2 b), c) and d)). APL has established relationships with Waikato-Tainui and the River iwi through the TWGG. That relationship is underpinned by a Memorandum of Understanding and a KEVA setting out how APL will work with and support mana whenua. This includes concrete steps towards improving economic and social wellbeing by supporting education and training programmes, providing employment, and creating a development that provides economic and social support to Huntly.
- 7.12 The objectives of the Vision and Strategy were central to APL's decision to engage early with mana whenua by establishing the TWGG. There was a genuine effort to involve tangata whenua in the development concept and to recognise matauranga Maori in the development itself and in their aspirations for social and economic improvements for the Huntly / Ohinewai area (objective 2.5.2 m)). The support of the TWGG as demonstrated through the KEVA and the MOU bears testimony to the projects' consistency with these objectives of the Vision and Strategy.
- 7.13 As this is a rezoning rather than a resource consent application, I have characterised some of these improvements as opportunities, as they are dependent on actions following the rezoning. The Planning Experts JWS confirmed that a proposal the scale of the OSP provides opportunities for



achieving the objectives of the Vision and Strategy.<sup>18</sup> While they are all potential improvements for the River, I acknowledge that other parties are seeking certainty of delivery of these objectives.

- 7.14 In developing the plan provisions to implement the OSP, a key objective has been to achieve as much certainty as possible, alongside advancement of a PDA with WDC. However, in my opinion, it is also important to make an assessment of likely outcomes when weighing up the contribution the OSP could make towards giving effect to the Vision and Strategy versus doing nothing. The Vision and Strategy will not be achieved without actions initiated by all parties, including private developers. In accordance with the Vision, all parties have a shared responsibility to undertake action, or enable others, to help achieve the Vision.
- 7.15 For these reasons, it is my opinion that the OSP gives effect to the Vision and Strategy.
- 7.16 Objective 3.9 is also relevant insofar as it refers to the relationship of tangata whenua with the environment being recognised and provided for. The OSP implements this through the matters covered in the KEVA and the MOU with the TWGG, which acknowledge that the TWGG support the development and that it provides a means of their relationship with the environment to be formalised. These methods will include matters such as cultural monitoring, training and education, cultural symbolism and commemorations, place names and protection of *taonga*.

### **Objective 3.12 Built Environment**

- 7.17 Objective 3.12 is the only objective in the WRPS that specifically acknowledges urban development and therefore it is a fundamental objective for the OSP. It is a high level objective and provides the basis for the more specific policies relating to the Future Proof land use pattern that I evaluate below.
- 7.18 The unanticipated nature of the OSP development challenges the responsiveness of the relevant planning instruments. In an ideal world, the sequence of strategic and spatial planning should be undertaken first, and the subsequent development proposal neatly fitted into it. However, that is not always the case, given the dynamic and unpredictable nature of urban development in a growing region creates challenges.

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18 Planning JWS, para 6.1.

- 7.19 Therefore, the objective is important in ensuring that the high level planning framework is maintained, despite the dynamic nature of land use change.
- 7.20 Several of the clauses in this objective are relevant.
- 7.21 Clauses c) and d) refer to integrating land use and infrastructure and water planning. In my opinion, the OSP is consistent with clauses c) and d) because the necessary infrastructure is already largely in place; the Waikato Expressway and the NIMT adjoin the site. The Ohinewai interchange has sufficient capacity to safely accommodate the transport demands<sup>19</sup>. Water and wastewater services are nearby at Huntly, but as described by Mr White are subject to upgrading and potentially rationalisation. In that respect the timing of the OSP is helpful as it allows the bigger picture servicing strategy (MWSS) to be developed in full knowledge of its demands. Integration does not only apply to a pre-planned situation; integration can equally mean combining a development with existing infrastructure with spare capacity.
- 7.22 Clause e) refers to protecting the value and benefits of regionally significant infrastructure. Regionally significant infrastructure is defined to include the Waikato Expressway, the NIMT, and the Huntly WWTP and WTP. In my opinion, the benefits of the Waikato Expressway and the NIMT are protected by using them for their purpose to support economic development in the form of industry and associated residential and commercial development. As there is available capacity in these transport corridors, they will not be compromised and their long term benefits will be maintained, taking into account the future demands of the Future Proof land use pattern through to 2041.
- 7.23 Clause h) recognises the need for the built environment to be responsive to changing land use pressures from outside the region.
- 7.24 The OSP is exactly that type of pressure; TCG has come to the conclusion that they need to relocate out of Auckland because of the limitation on their operations there.<sup>20</sup> Their relocation to Ohinewai is unanticipated and, as a result, brings some unanticipated challenges with it, particularly in the form of wastewater and water servicing. However, this clause recognises that the region should be prepared for such unanticipated developments and should react appropriately. Clearly, there will be some such land use pressures that are unable to be accommodated or responded positively to, but this is not

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19 Statement of evidence of Cameron Inder paragraph 7.4.

20 Statement of evidence of Craig Turner Section 4.

one of those, given its significant economic and social benefits and its consistency with infrastructure provision.

- 7.25 In terms of clauses j) and k) it will be consistent with providing a range of commercial development in the region. I discuss this in more detail under Objective 6.16.

### **Objective 3.14 Mauri and values of freshwater bodies**

- 7.26 This objective is a key for freshwater outcomes. The OSP impacts on freshwater only to the extent of treated stormwater disposal to the adjacent receiving environment near Lake Rotokawau, together with a potential future municipal wastewater discharge as described in section 7.8 above.

- 7.27 As set out in Mr Wadan's evidence the stormwater to be discharged will be of a higher quality as a result of adopting the treatment train approach<sup>21</sup>.

- 7.28 An assessment against this objective is somewhat circular as Objective 3.14 is to be achieved through Policy 8.5 which is to recognise the Vision and Strategy as the primary direction-setting document and develop an integrated, holistic and coordinated approach to implementation. The aim of this objective and policy is high level and focused on District Plan policies,<sup>22</sup> rather than site-specific rezoning. It also refers to 'maintaining and enhancing' freshwater values rather than the 'protect and restore' required under the Vision and Strategy. For that reason, I consider that if the objectives of the Vision and Strategy are achieved, this objective will be achieved.

### **Policy 6.1 Planned and co-ordinated infrastructure**

- 7.29 Section 6 of the WRPS aims to ensure that the built environment is planned and coordinated, including coordination with the provision of infrastructure. This section of the WRPS ensures that the Future Proof land use pattern is implemented through district plan provisions, in order to ensure that appropriately zoned and serviced land occurs in a timely and efficient manner.

- 7.30 Policy 6.1 is not particularly directive or prescriptive as it refers to development occurring in a 'planned and coordinated manner' and 'having regard' to the Development Principles in section 6, 'having regard' to the existing built environment and 'recognising and addressing' potential

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21 Statement of evidence of Pranil Wadan paragraphs 2.21-2.25.

22 WRPS Implementation method 8.5.

cumulative effects. In my opinion the OSP is a development that will occur in a planned manner, on the basis that it can satisfy the alternative land release criteria that I address below. The subsequent more detailed policies in 6.3 and 6.14 and associated implementation methods provide a more detailed assessment framework than the higher level Policy 6.1. Therefore, I do not assess Policy 6.1 further.

### **Policy 6.3 Co-ordinating growth and infrastructure**

7.31 Policy 6.3 is intended to achieve Objective 3.12 so is an important and relatively directive policy as it uses the term 'ensures'. It seeks to ensure co-ordination of growth with the development, funding, implementation and operation of transport and other infrastructure.

7.32 The ideal approach to achievement of this policy is to be able to predict urban growth and to plan and fund future infrastructure to support that growth. Essentially Future Proof, in conjunction with other District-level growth strategies such as Waikato 2070 and Waipa 2050, attempts to do this. The various councils have then developed long term infrastructure strategies and implemented them through funding allocations in their Long Term and Annual Plans.

7.33 However, the rate and direction of growth is not predictable and these strategies need to include elements of responsiveness and resilience to accommodate unanticipated demands such as the OSP on the premise that the OSP is a form of economic development that is desirable in the Huntly area. The issue is then whether it can be co-ordinated with the provision of infrastructure. The OSP proposal is arriving in a dynamic and changing planning environment where a history of low growth and increasing social deprivation is starting to be counterbalanced by a wide-ranging strategic interest in opportunities for growth through the H2A Corridor plan. That has not yet been made public to the point where it could guide the future, but early indications of its scope are found through:

- (a) Large areas of urban development earmarked in Waikato 2070;
- (b) A comprehensive strategic approach to Three Waters servicing through the Mid Waikato Servicing Strategy (MWSS) that is to be released in July;
- (c) The allocation of \$37m of Housing Infrastructure Fund (HIF) money to the upgrade of the Te Kauwhata Wastewater Treatment Plant;

- (d) The imminent start-up passenger rail service from Hamilton to Auckland; and
  - (e) Public sector investment in investigations into the H2A Corridor, including spatial plans.
- 7.34 These multiple investments, largely into infrastructure, signal future growth. The OSP has arrived early, but in a good position to support and integrate with these plans. Plans are important but they are not a substitute for investment in actual productive economic activity, creating jobs and products.
- 7.35 Given this development was not foreseen, the question is whether the infrastructure planning is sufficiently responsive and resilient to accommodate it. In my opinion, it is for the following reasons.
- 7.36 Firstly, the Waikato Expressway, including the Ohinewai Infrastructure, has sufficient capacity to accommodate the additional traffic generated by OSP, taking into account the demands of the Future Proof settlement pattern out to 2041. It is efficient and affordable to use this spare capacity. It maintains the operational effectiveness of the Expressway; the ITA does not identify any significant impacts or any need for major upgrades<sup>23</sup>.
- 7.37 The policy refers to protecting investment in existing infrastructure and questions have been raised<sup>24</sup> as to whether the use of the Waikato Expressway to service the development will 'protect' the Expressway and 'maintain and enhance its operational effectiveness'<sup>25</sup>. In my opinion the Expressway will be used for its planned purpose which includes '*To enhance inter-regional and national economic growth and productivity...*'<sup>26</sup>.
- 7.38 TCG is a major manufacturer and a major freight user between the Ports of Auckland and Tauranga and its move to Ohinewai will enhance economic growth in the region<sup>27</sup> and improve the company's productivity<sup>28</sup>. The OSP includes other secondary traffic generation aspects related to the residential and commercial activities, including some local trips on the 2.5km section of the Expressway between Ohinewai and Huntly. However, these are largely unavoidable due to the need to locate the development outside an existing urban area. These aspects are moderated by the public transport and other

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23 Statement of evidence of Cameron Inder paragraph 7.4.

24 Planning JWS paras 9.11 (d) and 12.2.

25 Policy 6.3 a) ii) and iii).

26 Waikato Expressway Network Plan 2014.

27 Statement of evidence of Brent Wheeler paragraph 11.1.

28 Statement of evidence of Craig Turner Section 4.

alternative transport mode proposals<sup>29</sup>. Given the available capacity in the network they do not call into question the suitability of the site.

- 7.39 Secondly, there is available capacity in the Huntly Wastewater Treatment and Water Treatment plants to accommodate the OSP as described in Mr White's evidence<sup>30</sup>. There are some issues with the timing and sequencing of the capacity and necessary upgrades, to match it to the OSP demands, particularly in the long term. However, these matters can be managed through staging and hold points within the OSP development to ensure capacity is in place before the development needs it.
- 7.40 In addition, the timing of the MWSS is such that it should have long-term water supply and wastewater solutions in place before they are needed by the OSP at around Year 7 of development.
- 7.41 Thirdly the private investment in infrastructure funding for the OSP will assist the local authorities in moving quickly to address current infrastructure problems such as the non-compliances associated with the operation of the Huntly WWTP. It will assist by providing additional critical mass to justify expenditure on key wastewater and water infrastructure. Without the OSP there would be less urgency; but there would also be less concrete outcomes able to be achieved in a short period of time.
- 7.42 In my opinion, the impetus provided by this private investment will enhance the effectiveness of water and wastewater infrastructure by accelerating its delivery, thus accelerating the rate at which current problems can be solved.

#### **Policy 6.14 Adopting Future Proof land use pattern**

- 7.43 Policy 6.14 of the WRPS seeks to ensure that new development within the sub-region adopts the Future Proof land use pattern. Specifically, the relevant clauses seek to ensure:

*new residential (including rural-residential) development shall be managed in accordance with the timing and population for growth areas in Table 6-1 (section 6D); and*

*new industrial development should predominantly be located in the strategic industrial nodes in Table 6-2 (section 6D) and in accordance with the indicative timings in that table except where alternative land*

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29 Statement of evidence of Cameron Inder paragraphs 9.52, 9.53.

30 Statement of evidence of Robert White paragraphs 2.9 and 2.24.

*release and timing is demonstrated to meet the criteria in Method 6.14.3;*

*new industrial development outside the strategic industrial nodes or outside the allocation limits set out in Table 6-2 shall not be of a scale or location where the development undermines the role of any strategic industrial node as set out in Table 6-2;*

*new industrial development outside the strategic industrial nodes must avoid, remedy or mitigate adverse effects on the arterial function of the road network, and on other infrastructure;*

*where alternative industrial and residential land release patterns are promoted through district plan and structure plan processes, justification shall be provided to demonstrate consistency with the principles of the Future Proof land use pattern.'*

- 7.44 The Policy 6.14 presumption is that development will fit with the Future Proof settlement pattern that is embedded in the WRPS. However, the policy also acknowledges that there are many unknowns and a settlement pattern developed in 2009 is likely to include increasing mismatches with reality as time moves on. As a result, the policy provides a mechanism to implement an alternative land use pattern. The OSP is a proposal that is not anticipated by any of the growth planning or the capacity analysis undertaken under the NPS-UDC requirements. It therefore falls squarely to be assessed on its merits against the alternative release criteria.
- 7.45 Implementation Methods 6.14.1 and 6.14.2 refer to implementing the Future Proof land use pattern through district plan provisions and ensuring that land is appropriately zoned to give effect to Table 6-2 of the WRPS. Specifically, Implementation Method 6.14.2 states that territorial authorities *'shall ensure land is zoned and appropriately serviced in accordance with Policy 6.14, Tables 6-1, 6-2 and 6-3 in section 6D'*. These policies and Table 6-2 specify 'strategic' industrial locations to enable development, but do not direct it, and do not identify specific land parcels.
- 7.46 The principle of ensuring sufficient land is zoned through methods 6.14.1 and 6.14.2 has been somewhat overtaken by the subsequent requirements of the NPS-UDC which provide much more specific, quantitative land capacity requirements. As those requirements are contained in a higher order NPS, in my opinion they provide better and more up to date evidence of the correct match of supply and demand. However, Policy 3.27, 'Minimum housing

targets for the Future Proof area' is up to date as it was inserted in 2018 as directed by the NPS-UDC.

7.47 Huntly / Rotowaro is one of the RPS strategic locations for industrial land. The land allocation and staging for Huntly and Rotowaro is set out in the following table:

Table 1; Table 6-2 of WRPS; Huntly and Rotowaro

Location	Land Allocation and Staging (ha)			Total Land Allocation
	2010-2021	2021-2041	2041-2061	
Huntly and Rotowaro	8	8	7	23

7.48 The industrial land allocations were based on Future Proof 2009 which predicted an annual average consumption rate of 27ha for the subregion.<sup>31</sup> The restrictions on industrial land allocation were partly due to infrastructure availability but also to avoid the oversupply of land that would result in uncoordinated growth which conflicted with the compact urban form and sustainability principles of Future Proof.<sup>32</sup>

7.49 However, the OSP represents a type of demand that is outside the historical predicted approach of the WRPS and Future Proof. It is driven by relocation of a major manufacturer out of Auckland.

7.50 Policies 6.14(c) and 6.14(g) of the RPS create flexibility for land use to depart from Tables 6-1 and 6-2 provided certain criteria and principles are met. The WRPS clearly envisages situations where the land areas contained in Table 6-2 can be varied by way of alternative land release or that new industrial development could locate outside the strategic industrial nodes. The Planning JWS confirmed this<sup>33</sup>. The alternative release criteria in Method 6.14.3 are specifically designed to address this issue. That method provides for alternative residential or industrial land releases to be approved provided that:

- a) *To do so will maintain or enhance the safe and efficient function of existing or planned infrastructure, when compared to the release provided for within Tables 6-1 and 6-2;*

31 Future Proof 2009, p67.

32 Future Proof Business Land Reconciliation, 2010, p4.

33 Planning JWS, para 9.19.



- b) *The total allocation identified in Table 6-2 for any one strategic industrial node should generally not be exceeded, or an alternative timing of industrial land release allowed, unless justified through robust and comprehensive evidence (including but not limited to, planning, economic and infrastructural/servicing evidence;*
- c) *Sufficient zoned and serviced land within the greenfield area or industrial node is available or could be made available in a timely and affordable manner, and making the land available will maintain the benefits of regionally significant committed infrastructure investments made to support other greenfield areas or industrial nodes.*
- d) *The effects of the change are consistent with the development principles set out in Section 6A'.*

7.51 This method has been applied several times over recent years to provide the necessary flexibility at the district level for zoned areas to depart from the land allocations. This flexibility is essential to ensure that the strategic planning framework set out in the RPS is responsive to change and enabling for urban development and does not have unintended side effects of stunting economic growth or imposing excessive transaction costs or delays on land use change, by (for example) requiring a change to the WRPS.

7.52 For example, in 2018, Plan Change 11 to the Waipa District Plan added 50ha to the Hautapu Strategic Industrial node to accommodate a large industrial operator that could not find a large enough site (30ha) elsewhere. The Commissioners' decision on Plan Change 11 approved the additional zoning. It effectively increased the total land allocation for the Hautapu Strategic Industrial Node of 96ha by 50ha.

7.53 The alternative release criteria are addressed in detail in section 10.2 of the 2019 AEE, including an assessment against the Development Principles in Section 6A of the RPS, and demonstrate a high level of consistency with them. It is not surprising that the OSP does not fit within the industrial land allocations in the WRPS (and Future Proof) given the demand has arisen as a result of relocation of TCG out of Auckland, rather than normal subregional land uptake. The industrial demand component of 68ha (including 30ha for

Sleepyhead and the rail siding) far exceeds the 16ha allocated in the RPS for Huntly for the period up to 2041.

- 7.54 Given that the purpose of Policy 6.14 and Implementation Method 6.14.3 is to provide flexibility it is not surprising that the wording of the provisions are more enabling than other policies and methods. In that respect the words 'should predominantly' rather than 'shall' are used in 6.14 c) and 'consistent with' is used in 6.14 g) and 6.14.3 d). In section 6A the Development Principles, also says 'New development should ...'
- 7.55 In my opinion, the term 'consistent with' means 'compatible with' or 'the same nature as'. It must not be contrary to the principles, but it does not need to implement them word for word or in a formalistic manner.
- 7.56 When this term is interpreted alongside the word 'should', I conclude that 6.14.3 means that, viewed 'in the round', the OSP should be compatible with the Development Principles when they are read as a whole. While analysis of each principle is necessary, and particular attention should be paid to the principles that are most relevant in the circumstances, it is not necessary for the development to be consistent with every one of the twenty principles.
- 7.57 I now address Method 6.14.3 in detail.
- 7.58 Clause a) requires the safe and efficient function of existing and planned infrastructure. This is essentially a repeat of the requirement in Policy 6.3. At paragraphs 7.31-7.34, I concluded that the Waikato Expressway, including the Ohinewai Interchange, can be used safely and efficiently and there is capacity available in the Huntly WWTP and WTP to accommodate the OSP in the medium term and a more strategic solution through the MWSS is likely to be in place in the long term.
- 7.59 Clause b) refers to the need to justify any alternative land release through robust and comprehensive evidence. In my opinion, this evidence has been provided through the 2019 AEE and s32AA assessment, the AEE Addendum dated 21 May 2020 and the current evidence.
- 7.60 Clause c) refers to existing industrial nodes, which is not applicable here, but it also refers to maintaining the benefits of regionally significant infrastructure to support other greenfield areas or industrial nodes.
- 7.61 I interpret this to mean that unanticipated development should not consume capacity that has been created in infrastructure to service the settlement strategy planned through Future Proof and the WRPS. However, given the

location of the OSP near Huntly, there is capacity in the Expressway and associated roading network, taking into account all planned development out to 2041. Therefore, the benefits of that infrastructure are maintained.

#### 6A Development Principles

7.62 Clause d) refers to consistency with the Development Principles in 6A. In this section, I assess The OSP against them. Note these are the 2009 Future Proof Development Principles embedded in the WRPS. They are slightly different to the 'Guiding Principles' in Future Proof 2017 which I address separately below under the Future Proof topic. Given my opinion that this is not a compliance checklist, but rather an overall assessment of consistency, I only assess the most relevant principles.

a) *Support existing urban areas in preference to creating new ones.*

7.63 The land requirement of the OSP as described by Mr Gaze is too large to fit into Huntly or any of the other towns in the vicinity. However, it is located as close as practicable to an existing town; Huntly, so that it can support it to the greatest extent possible.

7.64 Although there is currently a large area of rural land between Huntly and Ohinewai, it is only 2.3km from Huntly's future urban limits, which coincide with the Expressway. This means it is close enough to have many synergies and interactions with the township through schooling, shopping, recreation and social services. In that respect, Ohinewai will not be a 'dormitory' suburb where large travel distances are required to access these services; the distance is less than for many suburbs in a medium sized city such as Hamilton where some suburbs are 10km from the CBD. However, it was inevitable that a new urban area had to be created to allow for it.

b) *occur in a manner that provides clear delineation between urban areas and rural areas;*

7.65 The 15m building setbacks and landscaped areas adjacent to Rural zone boundaries will provide clear delineation.

c) *make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas;*

7.66 This principle is not relevant as it is a greenfields development.

- d) *not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated;*
- 7.67 This principle repeats Method 6.14.3 (a) and I have already assessed it as being consistent.
- e) *connect well with existing and planned development and infrastructure;*
- 7.68 The OSP connects very well with the NIMT and the Waikato Expressway, being adjacent to both. It is also sufficiently close to the Huntly WWTP and WTP to connect well with that infrastructure. As set out in Mr Gazes evidence, it can also connect readily with energy and communications infrastructure.
- f) *identify water requirements necessary to support development and ensure the availability of the volumes required;*
- 7.69 Water requirements to support the development have been identified. The volumes required can be supplied in stages, matched to development stages. The long term supply is dependent on the MWSS and the staging provisions will prevent development beyond the capacity. Further certainty over the timing of additional capacity will be available once the MWSS is released in the next few weeks.
- g) *be planned and designed to achieve the efficient use of water;*
- 7.70 The development will utilise a treatment train approach to stormwater management and will incorporate water reuse in accordance with plan provisions.
- h) *be directed away from identified significant mineral resources and their access routes, natural hazard areas, energy and transmission corridors, locations identified as likely renewable energy generation sites and their associated energy resources, regionally significant industry, high class soils, and primary production activities on those high class soils;*
- 7.71 The site is not identified within the Coal Mining Area, Aggregate Extraction area or Aggregate Resource Area overlays in the PDP and does not contain high class soils. Flood hazards have been identified and plan provisions

adopted to ensure building sites are above the 100 year flood level and any residual risk from stopbank failure.

- i) promote compact urban form, design and location to:*
- ii) minimise energy and carbon use;*
- iii) minimise the need for private motor vehicle use;*
- iv) maximise opportunities to support and take advantage of public transport in particular by encouraging employment activities in locations that are or can in the future be served efficiently by public transport;*
- v) encourage walking, cycling and multi-modal transport connections; and*
- vi) maximise opportunities for people to live, work and play within their local area;*

7.72 The OSP requires a compact urban form through medium density residential development. As it is an integrated employment, residential and commercial development with recreational facilities, it reduces the need for private car use within the development and maximises opportunities for live, work, play.

7.73 An initial public transport service is being developed in conjunction with WRC, so that public transport will be available at an early stage of development<sup>34</sup>, unlike many greenfields developments. As the OSP is not able to be accommodated within Huntly's urban limits there will be some demand for local trips to and from Huntly on the 2.5km section between Ohinewai and Huntly. However, those demands will be reduced by provision of a northbound local road link to Ohinewai South Road, as described in Mr Inder's evidence.

- j) maintain or enhance landscape values and provide for the protection of historic and cultural heritage;*

7.74 There are no significant landscape values on the site, and the open space areas integrate with the Outstanding Landscape Feature of Lake Rotokawau to the east. Mana whenua have not identified significant cultural features on the site but ongoing engagement with them will enable cultural symbolism and commemorations to be included in the design.

- k) promote positive indigenous biodiversity outcomes and protect significant indigenous vegetation and significant habitats of indigenous fauna. Development which can enhance ecological*

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34 Statement of evidence of Cameron Inder, paragraphs 9.52, 9.53

*integrity, such as by improving the maintenance, enhancement or development of ecological corridors, should be encouraged;*

7.75 The OSP includes 55ha of open space that will be used for stormwater treatment, recreation and ecological restoration. It will be developed in accordance with an ecological rehabilitation and management plan (ERMP) required by the plan provisions and will include establishment of ecological connections with the Lake Rotokawau Reserve. The site has been identified as potential black mudfish habitat so a specific indigenous fish assessment and plan will be required.

*l) maintain and enhance public access to and along the coastal marine area, lakes, and rivers;*

7.76 An additional public access to the Waikato River has been identified as part of the walking and cycling network, so will be consistent with this principle.

*m) avoid as far as practicable adverse effects on natural hydrological characteristics and processes (including aquifer recharge and flooding patterns), soil stability, water quality and aquatic ecosystems including through methods such as low impact urban design and development (LIUDD);*

7.77 LIUDD methods are proposed and are required by plan provisions. The groundwater evidence by Dave Stafford and the geotechnical evidence by Nick Speight have not identified any hydrological concerns.

*n) adopt sustainable design technologies, such as the incorporation of energy efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater harvesting and grey water recycling techniques where appropriate;*

7.78 These matters are largely for the resource consenting and detailed design stages. However, rainwater harvesting and recycling are proposed through plan provisions.

*o) not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure;*

7.79 The OSP includes industrial, residential and business activities. However, the design is such as to ensure open space buffers between the activities to avoid any reverse sensitivity effects. Setbacks and landscaping will mitigate visual

and amenity effects on neighbours on Lumsden Road. There is a localised reverse sensitivity noise effect from seasonal recreational shooting on Lake Rotokawau. It only affects the row of houses closest to the lake and is to be mitigated through rules requiring acoustic treatment of those houses. These rules will be backed up by a 'no complaints' covenant to be registered on all residential titles. This has been agreed with Fish and Game NZ but is not a plan provision.

*p) be appropriate with respect to projected effects of climate change and be designed to allow adaptation to these changes;*

7.80 Climate change has been taken into account in the flood modelling.

*q) consider effects on the unique tāngata whenua relationships, values, aspirations, roles and responsibilities with respect to an area. Where appropriate, opportunities to visually recognise tāngata whenua connections within an area should be considered;*

7.81 I have addressed tangata whenua relationships under my Vision and Strategy assessments above.

*r) support the Vision and Strategy for the Waikato River in the Waikato River catchment;*

7.82 I have addressed the Vision and Strategy in paragraphs 7.2-7.15 above.

*s) encourage waste minimisation and efficient use of resources (such as through resource-efficient design and construction methods);*

7.83 This is a detailed design issue and does not apply to a rezoning.

*t) recognise and maintain or enhance ecosystem services.*

7.84 I have addressed this principle in paragraph 7.73 above.

7.85 Based on my analysis, the OSP is in my opinion consistent with the Design Principles; indeed, there is a high degree of alignment. A key issue is that little weight can be placed on principles that intend that the development should be contained in an existing urban area given that it is an unanticipated development, outside the scope of the predicted Future Proof land use pattern, and of a size that cannot be contained in any of the townships.

### **Policy 6.16 Commercial development in the Future Proof area**

- 7.86 Policy 6.16 establishes a hierarchy of established commercial centres in the Future Proof area and seeks to consolidate commercial activities predominantly in the centres identified in Table 6-4. Huntly is identified as a 'Town Centre' in the table.
- 7.87 The wording of the policy and particularly the use of the terms 'primarily through' and 'predominantly' mean that the intent is to ensure that any commercial development outside these centres will not impact on those centres, but it does not preclude it. It allows for commercial activity outside the centres provided the criteria in 6.16 a) to g) are satisfied<sup>35</sup>.
- 7.88 The discount factory outlet ('DFO') does not fall within any of the functional descriptions in Table 6-4<sup>36</sup>.
- 7.89 Mr Heath's evidence confirms that the DFO is such a specialised and carefully proscribed form of retailing that it will not compete with the Huntly Town Centre or other commercial centres identified in Table 6-4. Therefore, in my opinion it gives effect to the policy.
- 7.90 I now evaluate the other statutory documents that are relevant under section 74 (2)(b) of the RMA.

## **8. FUTURE PROOF SUB REGIONAL GROWTH STRATEGY**

- 8.1 The Future Proof Growth Strategy was developed jointly in 2009 by HCC, Waikato Regional Council ('WRC') and Waikato District Councils alongside Tangata Whenua, NZTA and Matamata-Piako District Council. Its purpose is to provide a comprehensive and robust growth management strategy in order to ensure land use and infrastructure are managed collaboratively between the partner councils for the benefit of the entire sub-region. It was adopted in 2009 and is now embedded in a number of other statutory documents, including the WRPS and the PDP. Future Proof is now recognised by Central Government as a best practice tool for implementing the NPS-UDC.<sup>37</sup>
- 8.2 In 2017, Future Proof was updated ('Future Proof 2017') as part one of a two-stage review process to recognise national and sub-regional planning

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35 Planning JWS para 9.23.

36 Planning JWS para 9.22.

37 Future Proof 2017, p28.



changes that had occurred since 2009. That review (Phase 1) responded to initiatives such as the Waikato Plan and the NPS-UDC.

- 8.3 Because the Waikato Plan now addresses wider strategic matters, the scope of Future Proof has been narrowed to growth management and settlement pattern implementation. The vision for Future Proof is essentially unchanged, and the settlement pattern remains the cornerstone of the strategy. The settlement strategy is due to be updated as part of phase two of the review.
- 8.4 The settlement pattern as restated in Future Proof 2017 states that growth and development 'aims to achieve more compact and concentrated urban towns over time'. The settlement pattern is made up of key growth areas that have been identified within the sub-region: Hamilton City, Cambridge, Te Awamutu and Kihikihi, Pokeno, Tuakau, Huntly, Te Kauwhata, Ngaruawahia and Raglan.<sup>38</sup> Ohinewai is one of the District villages and is so close to Huntly (2.3km from the urban limits) that it will also contribute to Huntly's growth as outlined in Mr Heath's and Dr Wheeler's evidence.
- 8.5 Section 1.3 of Future Proof 2017 sets out the Guiding Principles of the Strategy. These principles have not changed significantly since 2009 when they were called Development Principles and embedded in the WRPS. They have been restated and validated as part of Future Proof 2017. I comment on the relevant principles as they relate to the OSP as follows, avoiding repetition of my assessment of the Development Principles:

*'Ensure the sub-regions towns and villages retain their individual and distinct identities with thriving town centres that support people to live, work, play, invest and visit.'*

- 8.6 This principle is relevant to both Huntly township and the Ohinewai village. Currently the Ohinewai village is a small enclave of 53 houses (42 on the western side of the Expressway and 11 on the eastern side on Lumsden Rd). It is a remnant of times when it was located on the busy State Highway 1 / Tahuna Rd intersection. State Highway 1 was realigned to bypass it in about 2005. Prior to that time, it contained a service station, a highway café ('Cowboys'), and other small commercial activities as well as the community hall and tennis courts that remain in place.
- 8.7 There is no employment of note in Ohinewai so there is no opportunity for it to provide a live-work-play environment. The rezoning will enable the

implementation of the masterplan which the OSP provides for and will create an opportunity for Ohinewai village to rejuvenate. This rejuvenation will take the form of a modern live-work-play environment, consistent with this principle. The rejuvenated village will include a small neighbourhood centre. It will not be a town centre; the town centre will remain in Huntly.

- 8.8 Currently Ohinewai Village lacks a distinct identity as the land is largely in rural use; there is no coherent urban development that would be expected of a village. The OSP will enable a distinct identity to be developed based on the medium density housing typologies, the recreational open space areas and the integration of those with the wetland vegetation around Lake Rotokawau, and the improved connectivity between Ohinewai East and West, all as shown on the masterplan.

*'Promote increased densities in new residential development and more intensive redevelopment of existing urban areas'*

- 8.9 The residential component of the rezoning will achieve a density of approximately 21 houses per hectare (net developable area) although this is reduced to about 13 houses per hectare when all the open space and stormwater treatment area is included. This meets the target in Future Proof of 12-15 households per hectare in townships<sup>39</sup>. The higher density is able to be achieved because it is a single-owner masterplanned site, contributing significantly to the district's achievement of compact living environments. Therefore, it is consistent with this Guiding Principle.

*'Encourage development to locate adjacent to existing urban settlement and nodes in both the Waikato and Waipa Districts ...'*

- 8.10 The OSP is adjacent to Huntly township, being 2.3km from the urban limits. Given the land area requirements of the Sleepyhead industrial development cannot be met within Huntly, the next best option is a site such as the Sleepyhead site which builds on and augments the functions of an existing village and is adjacent to Huntly, thereby achieving consistency with the Guidelines.

*'Ensure commercial and industrial development is located in selected subregional areas and that it is not located where it undermines the area of influence of the Hamilton'*

*Central City, Cambridge, Te Awamutu, Pokeno, Tuakau,  
Te Kauwhata, Horotiu, Ngaruawahia, Raglan and Huntly.'*

- 8.11 The rezoning is in a location that supports and does not undermine Huntly, as set out in the evidence of Mr Heath, Mr Osborne and Dr Wheeler. It is close enough to Huntly to support it through workers and residents using the commercial and social services available in Huntly.

*'Provide housing and lifestyle choice within defined locations, including papakāinga, with greater emphasis on good urban design outcomes. Where possible respond to government policies on land supply and housing affordability.'*

- 8.12 The OSP area provides housing and lifestyle choice in the locality as Huntly and Te Kauwhata both lack medium density housing options; being dominated by detached dwelling housing forms. As a single ownership masterplanned development, the Sleepyhead Estate will provide quality urban design outcomes as described in the evidence of Mr Broekhuysen.

*'Maintain the separation of urban areas by defined and open space and effective rural zoning.'*

- 8.13 The eastern boundaries of the OSP are well defined by the open space and wetland areas that are not suited to urban development and the transition into Rural zoned DoC reserve around Lake Rotokawau. The eastern edges are well defined.

- 8.14 To the north, Balemi Rd is the boundary and it provides a clear zone boundary with Rural zoned land to the north.

- 8.15 To the south, the boundary is clearly defined by Tahuna Road. The future boundary of the OSP could change if the Ohinewai Lands Ltd ('OLL') development proceeds, but that land is generally elevated and will be able to have a definable boundary with adjacent rural land. To the west the NIMT and the Waikato Expressway provide a clear boundary.

*'Recognise and provide for the growth of urban areas and villages within indicative urban and village limits.'*

- 8.16 Ohinewai Village does not have any defined urban limits so that guideline is not applicable. There is insufficient space for this development within the urban limits of Huntly.

*'Support existing commercial centres, towns and villages within the subregion so these places remain vibrant and valued.'*

- 8.17 As I stated in paragraph 8.11, the OSP will support the existing Huntly town centre.

*'Maintain and enhance the cultural and heritage values of the subregion.'*

- 8.18 The OSP has been developed taking into account the cultural values of the locality, as outlined in the KEVA. These values have been incorporated into the masterplanning and will be further reflected in a cultural symbolism plan at the detailed design stage.

*'Maintain, enhance and create important ecological areas and corridors for the protection and enhance of indigenous biodiversity.'*

- 8.19 *The open space* area of the OSP will connect to the ecologically significant vegetation adjoining Lake Rotokawau, protecting and enhancing it as described in Mr Croft's evidence.

- 8.20 I conclude that the OSP is consistent with the 'Guiding Principles' of Future Proof 2017.

- 8.21 Having reconfirmed the Guiding Principles, Future Proof 2017 outlines Key Assumptions and Findings and outlines Growth Management Areas. Huntly is identified as a key growth area. The relevant points for Huntly include:

*'Opportunities for redevelopment and growth'.*

*'Industrial and residential aspirations could provide an employment alternative to coal mining'.*

*'Potential to provide services and employment for surrounding areas including Te Kauwhata'<sup>40</sup>.*

- 8.22 These opportunities mirror the opportunities identified by TCG when they selected the Ohinewai site for the Sleepyhead manufacturing facility, with supporting housing. Huntly will provide the services and some of the labour force for the OSP, and has room to grow in response to it.

- 8.23 Future Proof 2017 did not update the spatial settlement strategy in Future Proof 2009. However, it includes a new section 7.5, 'A Responsive Approach

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40 Future Proof 2017, page 31.

to Development'. This section refers to the difficulty in predicting future growth demands and trends and provides further context and guidance for changes to the settlement pattern. It states:

*'With so many factors potentially influencing growth, the Future Proof Settlement Pattern needs to be agile enough to respond to change. A settlement pattern that has some built-in responsiveness provides an ability to capitalise on previously unidentified or emerging opportunities that have the potential to contribute to significant economic, social or cultural benefits to our communities.'*<sup>41</sup>

- 8.24 It specifies a range of matters that will need to be satisfied in order to depart from the settlement pattern<sup>42</sup>. This section further reinforces the need for flexibility when applying the settlement pattern in the RPS and the greater emphasis on settlement pattern flexibility and responsiveness is a key difference in Future Proof 2017 when compared to Future Proof 2009. Future Proof is a relevant document that is required to be taken into account when considering the OSP and how it gives effect to the WRPS. In my opinion, the OSP is a classic example of a previously unidentified opportunity that will contribute economic, social and cultural benefits, as envisaged by Section 7.5.
- 8.25 Section 12.1 and 12.3 of Future Proof 2017 relate to 'transport' and 'three waters' respectively.
- 8.26 As outlined in the evidence of Mr Inder, the OSP provides a good fit with desired outcomes because of its location on a key transport route which is planned as a mass transit corridor<sup>43</sup>.
- 8.27 In relation to three waters the OSP supports the Vision and Strategy for the Waikato River / Te Ture Whaimana by providing for an integrated approach to stormwater management which improves the quality of the discharge of stormwater into the adjacent wetlands, and includes a staged approach to connections to municipal water supply and wastewater infrastructure.
- 8.28 Future Proof 2017 includes proposed allocations and staging of growth across the subregion. They include forecasts of supply and demand for residential

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41 Future Proof 2017, page 40.

42 Future Proof 2017, page 40.

43 Waikato Regional Public Transport Strategy, 2008.

and businesses land; split into three decades; 2016-2025, 2026-2035, 2036-2045.

- 8.29 For the period 2016-2025 the tables indicate a shortfall of capacity of 300 households in Huntly<sup>44</sup>. As outlined in Mr Heath's evidence, this shortfall reflects the shortfall shown in the Housing and Business Capacity Assessment, and does not take into account the additional demand created by the OSP employment node. The shortfall is therefore likely to be greater, and will need to be addressed through a combination of actions, including the provision of residential land within the OSP and potentially redeveloping or releasing more land within Huntly.
- 8.30 Kainga Ora have made submissions and presented evidence to the Hearing Commissioners on methods for intensification of residential development within the District's townships.<sup>45</sup> I have discussed the practical implications of this with their planner, Mr Stickney, to gain an understanding of the likelihood that Kainga Ora could create additional housing capacity in Huntly through 'brownfields' redevelopment. He confirmed that Huntly was one of the townships that Kainga Ora was looking at for potential brownfields redevelopment opportunities. They own significant areas of State housing land, particularly in Huntly West. However, they do not have any specific plans yet and, in my opinion, delivery of any additional housing through brownfields development is likely to be some years away. In any case, they are likely to focus on provision of social housing, which is different to the housing market that OSP employees will be purchasing in.
- 8.31 In my opinion, brownfields development in Huntly would be a positive outcome, as it will provide wider housing choice and potentially better urban design outcomes, in conjunction with the OSP.
- 8.32 Table 3 in Future Proof 2017 shows that Te Kauwhata has spare housing capacity. This will clearly meet some of the demand from OSP employees.. However, Future Proof 2017 supports a balanced approach to residential growth and the wider benefits of utilising infrastructure and services in Huntly that are underutilised, and generally supporting existing towns and villages as part of building communities<sup>46</sup>. In my opinion, directing all growth to Te Kauwhata would be inconsistent with the Future Proof 2017 'live-work-play-invest and visit' principle.

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44 Future Proof 2017, p35.

45 Statement of evidence by Philip Stickney on Residential zones, dated 20 February 2020.

46 Future Proof 2017, p69

8.33 I conclude that the OSP is consistent with the Key Assumptions and Findings in Future Proof 2017.

## **9. OTHER RELEVANT DOCUMENTS**

9.1 This section briefly considers other non-RMA documents

### **Waikato 2070**

9.2 Waikato 2070, the Waikato District Growth Strategy, was prepared under the special consultative process in the Local Government Act 2005, the same process used for Future Proof. Submissions on the draft strategy were heard in February 2020 and WDC issued decisions on the submissions and adopted the final version of the Strategy on 19 May 2020.

9.3 Waikato 2070 includes the urban development of Ohinewai in section 04.7 and the Ohinewai Development Plan. It includes the OSP in the form of the 'Ohinewai South Industrial Cluster' and a residential growth cell. Both have a development timeframe of 1-10 years. It also includes an 'Ohinewai North Industrial Cluster' to the north of Balemi Rd. The strategy notes that 'growth areas are subject to further investigations, which will analyse the funding, servicing and infrastructure provision to support the growth areas identified'<sup>47</sup>.

9.4 Waikato 2070 is an important document as it is an example of a growth strategy referred to in the WRPS as an implementation method in high growth areas. For example, implementation method 6.3.3 recognises that in the absence of a growth strategy, urban development should be directed predominantly into existing urban areas. This logically means that a growth strategy could provide a basis to direct growth outside of existing urban areas.

9.5 Waikato 2070 is also very up to date and has been developed in the knowledge of the OSP, and has subsequently recognised it.

9.6 As a result, I place significant weight on it as a relevant document under section 74(2)(b), although less weight than Future Proof, parts of which are embedded in the WRPS. It provides a further strategic basis to exercise the flexibility of land release in the WRPS, in favour of the OSP.

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47 Waikato 2070 p25.

### **Waikato Area Blueprints**

- 9.7 The Waikato Area Blueprints are non-statutory documents developed by WDC in 2018. The intent of the Blueprints was to provide a high level spatial picture of how the district could develop over the next 30 years. They were developed through a series of 'inquiry-by-design' community workshops.
- 9.8 The local area blueprint for Ohinewai broadly identified the site of the OSP and one of the top priorities was 'ensuring that possible expansion addresses its own impacts (such as traffic, noise and visual) and ensuring it contributes positively to the local community'.
- 9.9 The Blueprints have less weight than Future Proof and Waikato 2070, as they are non-statutory documents.

### **Hamilton to Auckland Corridor Plan**

- 9.10 The Hamilton to Auckland Corridor Statement of Spatial Intent ('H2A') was launched in August 2019 as part of the Government's Urban Growth Agenda and focus on spatial planning. It is now known as the *Hamilton-Auckland Corridor for Wellbeing*. The intent of H2A is to promote integrated development whereby infrastructure leads growth, rather than vice versa. The Corridor broadly follows the Waikato River and the parallel NIMT and the Waikato Expressway. They are key infrastructure elements that can lead growth. The OSP is located within the Corridor and forms part of the central section of the corridor.
- 9.11 The OSP is consistent with early public information on the spatial intent for H2A. H2A has not been through any public consultative process in the way Future Proof or Waikato 2070 has and therefore it has little weight<sup>48</sup>.
- 9.12 In my opinion, its main relevance is to demonstrate the rapidly-changing strategic planning landscape in the face of higher than expected population and economic growth and unanticipated growth opportunities.

### **Waikato-Tainui Environmental Plan; Tai Tumu, Tai Pari, Tai Ao**

- 9.13 The Waikato-Tainui Environmental Plan ('WTEP') is required to be taken into account in accordance with section 74(2A). The overarching purpose of the WTEP is to provide a pathway that returns the Waikato-Tainui rohe to the modern day equivalent of the environmental state it was in when Kiingi Taawhiao composed his maimai aroha. It provides guidance to external

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48 Planning JWS para 10.7.



agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, its relationship with, and objectives for, natural resources and the environment, including the Waikato River.

- 9.14 The provisions of the WTEP that are most relevant to this rezoning are Section B Chapter 6 (Consultation and Engagement with Waikato Tainui) and Section C Chapter 11 (Vision and Strategy for the Waikato River).
- 9.15 Chapter 6 sets out the consultation and engagement expectations of Waikato-Tainui. It supports and encourages early involvement of Waikato-Tainui in major projects. APL gave effect to these expectations by establishing the TWGG in the early stages of preparation of the rezoning information to ensure that appropriate consideration is given to matters of importance to the people of Waikato-Tainui. The TWGG and its representation is described in the evidence of Mr Gaze.
- 9.16 Feedback from and the involvement of the TWGG has informed the masterplan concept and resulted in a number of beneficial outcomes. It has also contributed to potential achievement of a number of WTEP objectives including those relating to environmental enhancement (Chapter 7), tribal strategy (Chapter 10), customary activities (Chapter 14) and natural heritage (Chapter 15). In my opinion, the OSP is consistent with the WTEP.

## **10. ISSUES RAISED BY FURTHER SUBMITTERS**

- 10.1 Many of the issues raised by WRC, NZTA and Future Proof have been addressed in section 6 above.
- 10.2 In Mr Mayhew's summary position statement, he raised concerns that alternative site locations or development options had not been adequately assessed<sup>49</sup>.
- 10.3 Under section 32 of the RMA, the local authority is required to evaluate:
- (a) Whether the objectives of the particular proposal represent the "most appropriate" way to achieve the purpose of the Act (s32(1)(a)); and
  - (b) Whether the provisions of the proposal are the "most appropriate" for achieving the objectives of the proposal, including identifying other reasonably practicable options and assessing the efficiency and effectiveness of the provisions of the proposal (s32(1)(b)).

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49 Ian Mayhew Summary Position statement para 5.12.

- 10.4 In the context of a proposal for rezoning, this generally requires an evaluation of the costs and benefits of a proposed rezoning compared with the benefits and costs of the operative zoning. The “most appropriate” method does not necessarily need to be the superior method; rather, what is required is a value judgment as to what is the most appropriate when measured against the relevant objectives. In other words, “appropriate” means “suitable” in this context.
- 10.5 There may be situations where consideration of alternative sites would be relevant, such as where public land is involved or where significant adverse effects are expected;<sup>50</sup> however, in my opinion, this is not one of them. The alternatives assessment required depends on the nature of the proposal and the decision-making context, and the evidence establishes that there will be no significant adverse effects that cannot be remedied or mitigated, such that consideration of alternatives is required for that reason.
- 10.6 There are obviously significant practical difficulties involved in the consideration of “alternative locations” in the section 32 analysis given that no other possible sites are on the table. It would be a huge task to specifically eliminate all other potential alternative sites within the district, and is not necessary given the relevant test is whether the site is “appropriate” or “suitable”.
- 10.7 In any event, alternative options were extensively considered by APL. As set out in Mr Gaze’s evidence, no other sites were identified that met all of its criteria<sup>51</sup>.
- 10.8 In a similar vein, Mr Mayhew is concerned that the OSP will attract further development to it, and the cumulative effects of that need to be considered in the context of a wider spatial planning exercise before permitting any development<sup>52</sup>.
- 10.9 I agree that the ideal planning approach is to be able to predict land use needs over a long time frame and prepare spatial plans and associated infrastructure plans to accommodate them. However, that is not always possible and plans also need to be responsive, and the WRPS and Future Proof are deliberately so. They enable significant land use change where the benefits are significant and where the risks and any adverse effects can be properly managed.

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50 *Brown v Dunedin City Council* (2003) NZRMA 420 (HC).

51 Statement of evidence of David Gaze evidence Section 3.

52 Ian Mayhew Summary Position Statement para 5.1-5.4.

- 10.10 As this development proposal has progressed, I had expected other landowners in Ohinewai such as OLL and Shand Properties would have advanced their proposals further, enabling a more comprehensive structure planning exercise and a better understanding of cumulative effects. However, they have chosen not to at this stage and, as the OSP does not depend on them, and does not preclude them in the future, it is an appropriate approach for it to advance alone.
- 10.11 Mr Mayhew also raises concerns that the benefits stated by APL may not be realised unless they are locked in through plan provisions<sup>53</sup>. The issue here is that APL has a vision for the development, encompassing social and philanthropic objectives that extend beyond the ability of a District Plan to regulate them to take place. I agree with Mr Mayhew that there are certain aspects that can and should be regulated to ensure appropriate environmental outcomes. These should include infrastructure staging, urban design outcomes, stormwater treatment, mitigation of noise and visual effects and the like. I agree with Mr Mayhew that these should be reflected in plan provisions.
- 10.12 However, taking a further step of enforcing elements such as the trade training, tangata whenua involvement and subsidised worker housing is beyond the scope of the RMA and the various planning instruments. In my opinion, those elements are not critical components of an acceptable development, but they are likely to be delivered because of TCG's role as the developer and primary industrial occupier. As set out in Mr Turner's evidence on behalf of TCG the move to Ohinewai is a critical part of their business strategy.

## **11. SECTION 42A REPORT**

- 11.1 The rezoning proposal has moved on substantially since the s42A report was prepared in March 2020. There have been extensive discussions with WDC staff and consultants since that time and the plan provisions have been revised. However, I comment on two outstanding issues.
- 11.2 The first is the issue of 'affordable housing'. The evidence of Mr Gaze describes TCG's proposals to assist some of their workers into home ownership. The term 'affordable housing' has a specific meaning that arose out of the Housing Accords and Special Housing Areas Act ('HAASHA') legislation. Special Housing Areas (SHA's) were developed across New

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53 Ian Mayhew Summary Position Statement para 5.11.

Zealand using those provisions to provide housing at below standard market price points.

- 11.3 This situation is different. The single landowner anchor manufacturer, New Zealand Comfort Group ('TCG'), has an objective of assisting a portion of their employees into home ownership, something they have been unable to achieve in Auckland. They see this as both a social and business objective as it is good business to encourage a stable and loyal workforce to live in good quality housing near the factory, with the security of property ownership. In addition, from their point of view, any concept of affordability is first and foremost a comparison with housing costs in Auckland and the ability of their staff to become landowners in that market.
- 11.4 This differs from the objectives of HAASHA which were to provide a proportion of lower cost housing across the board particularly for first home buyers, on the open market. I understand the desire to 'lock in' the approach to housing that was described in the December AEE through plan provisions<sup>54</sup>. However, there is currently no wider policy basis for affordable housing rules in the PWDP and therefore any provisions would need to be Ohinewai-specific and would realistically need objectives as well as policies to provide a robust framework for any rules. This would create a significant internal inconsistency within the PDP as those affordability objectives would not apply anywhere else.
- 11.5 In any case, traditional SHA rules adopted 90% of the average value of the city or town as the affordability criterion. I have explored benchmarking values against other Waikato district towns in the vicinity, being Te Kauwhata, Huntly, and Ngaruawahia. APL's valuer's advice is that as all the Ohinewai housing will be new builds it is necessary for affordability to be benchmarked against a market that included a reasonable proportion of new builds; however, data that separates new builds from existing housing is not readily available.
- 11.6 Basing it on existing Huntly median values is unrealistic as the existing housing stock is of low value and there are very few new builds. The median house value for Huntly is \$380,700 (March 2020)<sup>55</sup>. Ngaruawahia is similar although there are a few new builds with a March 2020 median of \$453,050<sup>56</sup>. Te Kauwhata has a reasonable mix of existing and new builds with a median value of \$574,800 (March 2020)<sup>57</sup>. In all cases, the statistical

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54 Ibid.  
55 [www.opespartners.co.nz](http://www.opespartners.co.nz).  
56 Ibid.  
57 Ibid.

sample is quite small as well, making the data less reliable. TCG considers that it will be able to build medium density units for around \$500,000 and be able to offer them to employees on attractive terms.

- 11.7 Based on these values, it is impractical to devise a set of 'affordability' provisions that are workable and effective, even if that was consistent with PDP policies. Even applying the SHA model to Te Kauwhata values, it would be difficult to achieve the 90% benchmark.
- 11.8 As a result, I have concluded that plan provisions would not provide the type of housing TCG intend. Instead, I have come to the conclusion that the only plan provision that will assist in regulating an outcome that TCG desire is a minimum density requirement in the Residential zone. This will require implementation of the small lots and medium/high density housing typologies discussed in Mr Gaze's and Mr Broekhuysen's evidence, which are the key elements in achieving lower cost homes for workers. The minimum density requirement is included as Rule 16.6.3 RD1 in the plan provisions at **Attachment B**.
- 11.9 The second issue is the position in the s42A report that the industrial development is acceptable but the housing development is not. In my opinion the housing is an essential element of creating an urban environment that is as self-sufficient as possible, reduces home to work trips on the roading network and in this case also supports Huntly town centre because the housing area is so close to it. Removing the housing component is also contrary to the 'live-work-play-invest' philosophy in Future Proof 2017.

## **12. PROPOSED AMENDMENTS TO PLAN PROVISIONS**

- 12.1 The current draft set of plan provisions at the time of writing is attached as Appendix 2. They have been developed as stand-alone additions to each of the Residential, Business and Industrial chapters of the PDP, similar to the way the PDP provides for the Rangitahi Peninsula and the Lakeside development at Te Kauwhata. They adopt many of the provisions from the relevant zones, but where necessary include rules specific to the OSP.
- 12.2 Key amendments from earlier versions of the provisions are:
- (a) All subdivision and development is restricted discretionary activity so that there is scope to address the cumulative effects of staged development and to include consent conditions requiring staged infrastructure upgrades and connections.

- (b) An ITA is required for each resource consent, rather than adopting the permitted activity cap of 200 vehicle movements per day in the PDP. Again, this is to ensure cumulative transport effects are captured and avoid incremental permitted development occurring without controls.
- (c) A minimum building platform level is now included, based on information now available on the 100 year flood level and the residual risk from stopbank breaches.
- (d) A more comprehensive table of infrastructure upgrades incorporating water, wastewater and community infrastructure, is now included.

12.3 I have not included all of the relevant plans that will be included in the District Plan in **Attachment B**. They are attached to the evidence of Jonathan Broekhuysen. They are:

- (a) The Ohinewai Structure Plan which is Attachment B to his evidence.
- (b) The Business Area Structure Plan which is Attachment C to his evidence.
- (c) The Zoning Plan which is Attachment D to his evidence.

12.4 I have included the Staging Plan in **Attachment B**.

### **13. CONCLUSIONS**

13.1 The OSP is a major land use change for Ohinewai that has the potential to significantly improve the social, economic and cultural wellbeing of the Ohinewai/Huntly area. As it is an unanticipated development it does not form part of the expected land use pattern in Future Proof and the WRPS. However, those planning instruments include flexibility and responsiveness provisions, supported by the NPS-UDC. Those provisions provide a pathway for the rezoning to be accepted.

13.2 The OSP includes a series of plan provisions limiting staged development to the capacity of infrastructure and implementing environmental mitigation and improvements that mean that the relevant criteria are met.

13.3 In my opinion, the OSP satisfies the necessary statutory tests in the RMA and the subservient planning instruments and is an opportunity to contribute significantly to economic and employment growth in a locality that desperately needs it.

**John Olliver**  
**9 July 2020**

**ATTACHMENT A**  
**KEY ENVIRONMENTAL ISSUES TABLE**



**ATTACHMENT B**  
**PROPOSED AMENDMENTS TO PLAN PROVISIONS**