

BEFORE THE INDEPENDENT HEARINGS PANEL
THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

UNDER the Resource Management Act 1991 (“**RMA**”)

IN THE MATTER OF hearing submissions and further submissions on the
Proposed Waikato District Plan (Stage 1)
Topic 22: Infrastructure and Energy

BY **WATERCARE SERVICES LIMITED**
Submitter

STATEMENT OF PRIMARY EVIDENCE OF CHRISTOPHER JAMES SCRAFTON
ON BEHALF OF WATERCARE SERVICES LIMITED
Planning

Dated: 29 September 2020

1. INTRODUCTION

- 1.1 My name is Christopher James Scrafton. I am a Technical Director – Planning in the consultancy firm of Beca. I have over 20 years' experience in town planning.
- 1.2 I hold the qualifications of a Bachelor of Arts in Geography from the University of Hull, and a Postgraduate Certificate and a Masters in Town Planning from the South Bank University, London. I am a full member of the New Zealand Planning Institute. I am an accredited Commissioner under the Ministry for the Environment and Local Government New Zealand "Making Good Decisions" 2006 Programme.
- 1.3 My previous experience includes the following relevant projects:
- (a) Expert Planning witness for Watercare Services Limited (Watercare) through the Council hearing process for Plan Change 1 to the Waikato Regional Plan;
 - (b) Lead Planner for Auckland Council for the development of the Major Recreation Facilities Zone and Precincts and the noise and vibration Chapter of the Auckland Unitary Plan;
 - (c) Workstream leader for the development of a number of district plan chapters through the development of the proposed Hamilton City and Southland District Plans;
 - (d) Lead planner in the development of Plan change 21 to the Waikato District Plan;
 - (e) Lead planner in the development of the Pokeno Structure Plan.
 - (f) Chief author of the Assessment of Effects on the Environment for the Northern Interceptor Wastewater Project – Phases 1 to 6.
 - (g) Chief author of the Assessment of Effects on the Environment for the Te Awamutu and Pukekohe Wastewater Discharge consenting Projects.
- 1.4 Watercare's primary relief sought in relation to Topic 22 can be summarised as follows:
- (a) A more robust policy framework should be provided to recognise the functional need of infrastructure to locate in Identified Areas.
 - (b) Greater certainty should be provided around the interrelationships of the policy frameworks contained within the different relevant sections of the

PWDP relevant to the provision of infrastructure in Identified Areas (namely Chapters 2,3,6 and 7).

- (c) Wastewater treatment plants, water treatment plants and aboveground reservoirs should be provided for as Discretionary Activities, rather than Non-Complying Activities in Identified Areas.

2. CODE OF CONDUCT

- 2.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

3. WATERCARE'S RESPONSIBILITIES AND INTERESTS IN THE WAIKATO

- 3.1 Watercare's statutory responsibilities as the provider of water and wastewater services for Auckland, and its assets and interests in the Waikato District are outlined in its submission and further submission on the PWDP, and in the evidence of Ms Gotelli. In summary:

- (a) Watercare is the Council-Controlled Organisation of Auckland Council responsible for providing essential water and wastewater services to existing and future communities in Auckland.
- (b) Watercare's water and wastewater assets in the Waikato District include its water treatment plant at Tuakau that treats water taken from the Waikato River, the Mangatawhiri and Mangatangi water storage lakes in the Hunuas, and the Pukekohe Wastewater Treatment Plant.
- (c) In 2010, Watercare began providing wastewater and drinking water services to the Tūākau and Pōkeno communities through a Bulk Supply Agreement with Waikato District Council.

- 3.2 Accordingly, Watercare has an interest in the PWDP objectives, policies and rules affecting water and wastewater infrastructure in the Waikato District

4. INFRASTRUCTURE IN IDENTIFIED AREAS

4.1 Chapter 14 of the PWDP defines Identified Areas within the Infrastructure and Energy Chapter as:

- (i) *Urban Expansion Area*
- (ii) *Significant Natural Area*
- (iii) *Outstanding Natural Feature*
- (iv) *Outstanding Natural Landscape*
- (v) *Significant Amenity Landscape*
- (vi) *Outstanding Natural Character*
- (vii) *High Natural Character*
- (viii) *Heritage Items*
- (ix) *Heritage Precinct*
- (x) *Maaori Sites of Significance*
- (xi) *Maaori Areas of Significance*
- (xii) *Notable Trees*

4.2 My understanding of how the PWDP provides for infrastructure within Identified Areas is follows:

- (a) Chapter 6 sets out the objectives and policies for infrastructure and energy across the district.
- (b) Chapter 14 sets out the rules and standards for infrastructure and energy across the district.
- (c) Chapter 14 also states that the zone chapters and associated overlays, objectives, policies and rules do not apply to infrastructure and energy activities (unless specifically referred to). Subsequently, Chapter 14 states objectives and policies of the following chapters will apply to infrastructure activities within Identified Areas (as stated in Chapter 14):
 - (i) Chapter 2: Tangata Whenua

(ii) Chapter 3 Natural Environment

(iii) Chapter 7 Historic Heritage

- 4.3 The location and extent of Identified Areas are shown in the map contained in Appendix 1 to this evidence. The map shows that a substantial part (approximately 20%) of the Waikato District is included within the Identified Areas. This includes areas next to rivers, lakes, and storage lakes where there are existing water and wastewater assets at present, and where there may be a functional or operational need to locate further water and wastewater assets in the future.
- 4.4 Chapter 6 of the PWDP sets out the objectives and policies for infrastructure and energy across the district. I identify the objectives and policies that I consider to be relevant for infrastructure within Identified Areas at Appendix 2.
- 4.5 I generally support the intent of Identified Areas to provide additional statutory protection to areas of recognised value, however I also consider that the spatial extent scheduled as Identified Areas is extensive and as such, the associated provisions should be drafted to reflect this. I consider that amending the policy framework will avoid unintended consequences in terms of hindering the provision of essential infrastructure such as that associated with water and wastewater services. For example, I consider that the objectives and policies of the PWDP should be drafted in a manner that recognises the functional and operational needs of water and wastewater infrastructure within Identified Areas (e.g. a water reservoir is required to be located on a high landform).
- 4.6 As discussed in more detail below, I consider that amendments to the PWDP to better recognise the importance of infrastructure to well-functioning communities and the associated functional and operational requirements of infrastructure are needed. Amendments should include:
- a) Specific guidance within the PWDP guiding plan users to consider the Infrastructure chapter and the relevant Identified Area provisions when proposing infrastructure within an Identified Area;
 - b) Additional policy within Chapter 6 enabling infrastructure within Identified Areas where there is a demonstrated functional and/or operational need; and
 - c) Additional policy support for the functional and operational needs of infrastructure within the policy framework for each of the Identified Areas.

5. SPECIFIC GUIDANCE WITHIN CHAPTER 14 OF THE PWDP

5.1 I note that the s42A Reporting Officer recommends that the following additional text be included within the introduction to Chapter 14:¹

The objectives and policies of Chapter 2: Tangata Whenua, Chapter 3 Natural Environment and Chapter 7 Historic Heritage will apply to infrastructure activities within the identified areas of those chapters.

5.2 As noted above, I consider that the PWDP needs to clearly state that the objectives and policies of the Identified Area chapters should be considered and weighed against the objectives and policies of Chapter 6. As such, I recommend the additional amendments to the s42A Reporting Officer's recommendation:

In addition to the objectives and policies of Chapter 6, the objectives and policies of Chapter 2: Tangata Whenua, Chapter 3 Natural Environment and Chapter 7 Historic Heritage will apply to infrastructure activities within the Identified Areas of those Chapters.

5.3 In my view, making it clear that the relevant objectives and policies of Chapters 2, 3 and 7 to be applied in addition to the objectives and policies contained in Chapter 6 provides more certainty and consistency for assessments undertaken in support of infrastructure activities within Identified Areas. I consider that the amendments proposed above make it clear that infrastructure within Identified Areas would require a consideration both of the values and characteristics of the Identified Areas as well as a consideration for the need of infrastructure to be located within it.

6. AMENDMENTS TO CHAPTER 6

6.1 Policy 6.1.2 seeks to provide for the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure throughout the district by (amongst other things) recognising functional and operational needs. Operational and functional need is defined in the PWDP as:

Means for Chapter 14 Infrastructure and Energy, the need for a proposal or activity to traverse, locate or operate in a particular environment because it can only occur in that environment.

¹ Section 42A report, Topic 22: D0 Infrastructure and Overall Energy, Paragraph 55

- 6.2 I acknowledge that “throughout the district” could be interpreted as including Identified Areas, however in my view this:
- a) Is not sufficiently explicit and risks inconsistent interpretation as to whether this applies to Identified Areas or not; and
 - b) If it does include Identified Areas, is likely to be given a lesser weighting in any policy assessment associated with the provision of infrastructure within an Identified Area when considered against the more explicit and directive “protect” policies² that apply to Identified Areas.
- 6.3 Having regard to the objectives and policies of Chapter 6 and in particular Policy 6.1.2 and the issues identified above at Paragraph 6.2, I consider that additional policies are required in Chapter 6 that:
- (a) Specifically recognise that there may be a functional or operational need for infrastructure to be located within Identified Areas; and
 - (b) Outline the matters that should be demonstrated when considering infrastructure activities within Identified Areas.
- 6.4 As such, I recommend that the following policies be included in Chapter 6:

6.1.X Policy – Functional or Operational Need for Infrastructure in Identified Areas

Enable infrastructure in Identified Areas where there is a demonstrated functional or operation need.

6.1.Y Policy – Infrastructure within Identified Areas

When infrastructure has a functional or operational need to be located within an Identified Area:

- a) *Avoid adverse effects on the values of the Identified Area to the greatest extent practicable.*
- b) *Where adverse effects cannot practicably be avoided, then remedy or mitigate adverse effects on the values of the Identified Area to the greatest extent practicable.*

² For example policies 3.5.3 and 3.5.4

c) Offset any remaining significant residual adverse effects that cannot be practicably avoided, remedied or mitigated.

7. IDENTIFIED AREAS OBJECTIVES AND POLICIES

7.1 In addition to the above, I also recommend that the functional and operational requirements for infrastructure within Identified Areas be recognised within Chapters 2,3 and 7 of the PWDP in a manner consistent with the recommendations above. The current policies and objectives proposed within these chapters are silent in relation to the potential for any infrastructure activities.

8. ACTIVITY STATUS OF INFRASTRUCTURE ACTIVITIES

8.1 Chapter 14 of the PWDP provides for water treatment plants, wastewater treatment plants and above ground reservoirs within Identified Areas (and a number of zones for wastewater treatment plants) as non-complying activities.

8.2 Section 104D of the RMA requires any application for a non-complying activity to demonstrate that:

- (a) the proposal is not contrary to the objectives and policies of the relevant plan or proposed plan; or
- (b) the adverse effects of the activity on the environment will be minor.

8.3 Given my concerns with the notified policy framework relevant to infrastructure within Identified Areas (as discussed above) and the likelihood that the development of infrastructure within Identified Areas is generally likely to result in adverse effects on the environment that are more than minor, I consider it likely that infrastructure within an Identified Area will generally struggle to pass the gateway tests of Section 104D of the RMA as the PWDP is currently drafted.

8.4 In my view, water treatment plants, wastewater treatment plants and above ground reservoirs all constitute regionally significant infrastructure as defined in the Waikato Regional Policy Statement (RPS) and there is a clear policy direction in the RPS to have particular regard to the benefits that can be gained from regionally significant infrastructure³.

³ Policy 6.6, Waikato Regional Policy Statement

- 8.5 Furthermore, the National Policy Statement on Urban Development Capacity 2020 (NPS-UD), which came into force on 20 August 2020 requires⁴ that Council provide sufficient development capacity⁵. I note that Council providing sufficient development capacity in the short term is contingent on there being adequate development infrastructure⁶ in place. I consider that this policy framework can only be achieved by means of obtaining consent for the necessary water and wastewater infrastructure to service the required development capacity.
- 8.6 Given this higher order policy direction, I consider that a non-complying activity status for water treatment plants, wastewater treatment plants and above ground reservoirs within Identified Areas is inappropriate. Given the amendments to objectives and policies recommend above, I also consider that the protective requirements of the Identified Areas can generally be achieved whilst recognising the functional and operational needs of infrastructure.
- 8.7 In addition to the above, in my view the objectives of the Plan (particularly in terms of enabling growth and associated integrated infrastructure provision⁷) can be achieved by a Discretionary activity status and that this would constitute a more efficient and effective approach than a Non-Complying activity status in terms of section 32(1)(b)(ii) of the RMA.
- 8.8 Having regard to the current drafting of the PWDP, the NPS-UD, RPS, and the requirement to give effect to National Policy Statements and the RPS in accordance with sections 75(3)(a) and (c) of the RMA, I consider it inappropriate to identify regionally significant infrastructure as a non-complying activity within Identified Areas within the PWDP. As such, I recommend that water treatment plants, wastewater treatment plants and above ground reservoirs within Identified Areas be identified as Discretionary Activities within the PWDP.

Chris Scafton

29 September 2020

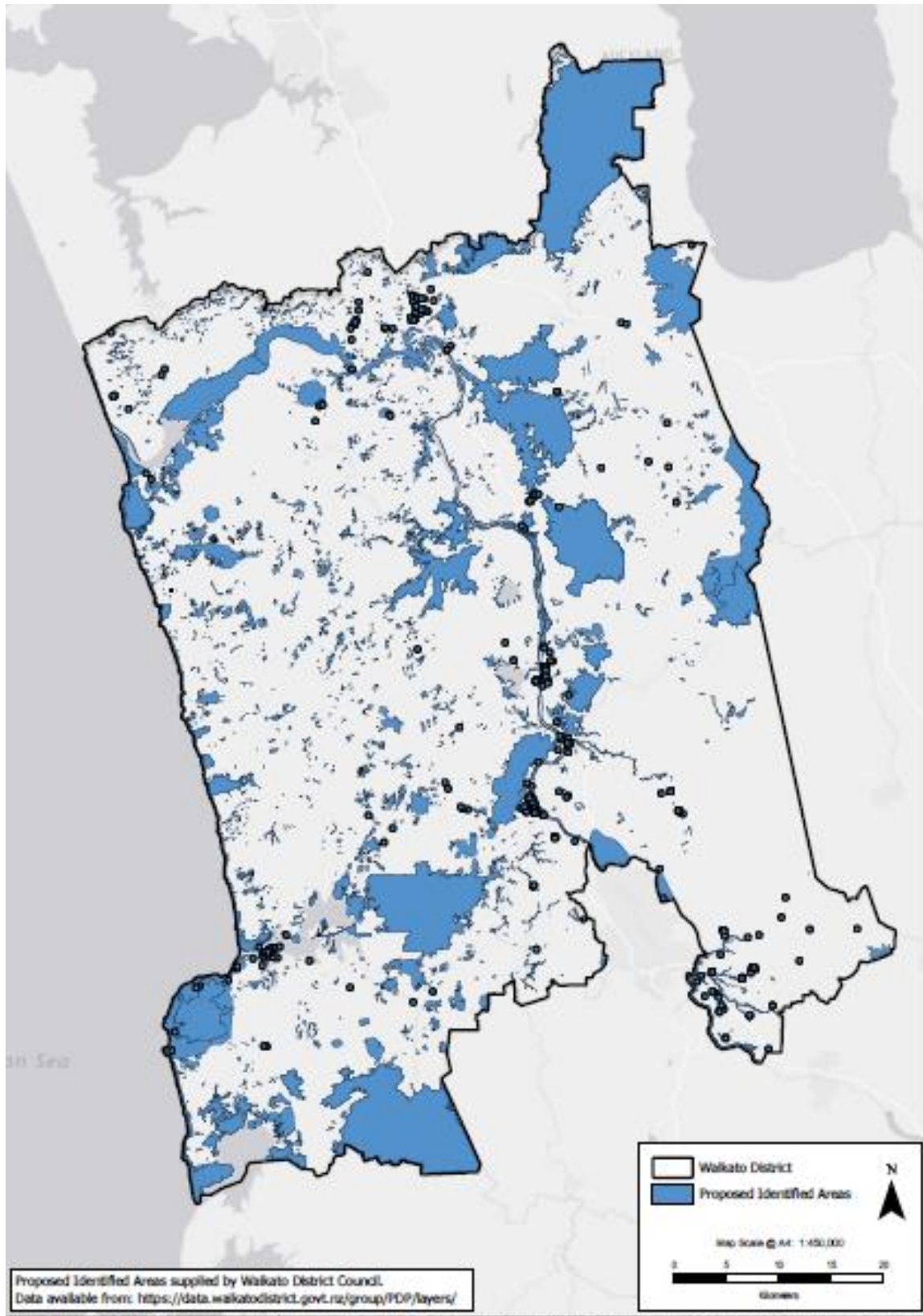
⁴ Policy 3.2(1) of the NPS-UD.

⁵ Development Capacity in the NPS-UD 2020 means the capacity of land to be developed for housing or for business use, based on: the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and the provision of adequate development infrastructure to support the development of land for housing or business use

⁶ Development Infrastructure in the NPS:UD 2020 means the following, to the extent they are controlled by a local authority or council controlled organisation (as defined in section 6 of the Local Government Act 2002): network infrastructure for water supply, wastewater, or stormwater land transport (as defined in section 5 of the Land Transport Management Act 2003)

⁷ Objectives and Policies in Chapter 4.1 of the PWDP.

APPENDIX 1 – IDENTIFIED AREAS WITHIN THE WAIKATO



APPENDIX 2 – RELEVANT OBJECTIVES AND POLICIES AND RECOMMENDED ADDITIONS IN RELATION TO INFRASTRUCTURE IN IDENTIFIED AREAS⁸

(a) **6.1.1 Objective – Development, operation and maintenance of infrastructure**

Infrastructure is developed, operated and maintained and upgraded to ~~benefit~~ the enhance social, economic, cultural and environmental well-being of the district.

(b) **6.1.2 Policy – Development, operation and maintenance**

Provide for the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure throughout the district by recognising:

- (i) Functional and operational needs;*
- (ii) Location, route and design needs and constraints;*
- (iii) Locational constraints related to the need to access suitable resources or sites;*
- (iv) The benefits of infrastructure to people and communities;*
- (v) The need to quickly restore disrupted services;*
- (vi) Its role in servicing existing consented and planned development; and*
- (vii) The need to access infrastructure.*

(c) **6.1.4 Policy – Infrastructure benefits**

Have regard to the benefits that infrastructure provides, including:

- (i) Enabling enhancement of the quality of life and residential standard for people and communities;*
- (ii) Providing for public health and safety;*
- (iii) Enabling the functioning of business and growth and development;*
- (iv) Managing adverse effects on the environment;*

⁸ Amendments recommended within the s42a report are underlined and ~~striked through~~.

- (v) Enabling the transportation of freight, goods and people;
- (vi) Enabling interaction and communication; and
- (vii) Providing for lifeline utility services.

(d) **6.1.8 Objective– Infrastructure in the community and identified areas**

Infrastructure takes into account the qualities and characteristics of surrounding environments and community well-being.

(e) **6.1.9 Policy – Environmental effects, community health, safety and amenity**

Require the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure and its associated structures to avoid, remedy or mitigate adverse effects on the environment, community health, safety and amenity.

(f) **6.1.10 Policy - Infrastructure in identified areas**

Ensure consideration of the values, qualities and characteristics of Significant Natural Areas, Landscape and Natural Character Areas and Heritage Items, Heritage Precincts, and Maaori Sites and Areas of Significance, including Waahi Tapu and Waahi Tapu Areas when proposing new infrastructure or undertaking significant upgrades to existing infrastructure.

(g) **6.1.X Policy – Functional or Operational Need for Infrastructure in Identified Areas**

Enable infrastructure in Identified Areas where there is a demonstrated functional or operation need.

(h) **6.1.Y Policy – Infrastructure within Identified Areas**

When infrastructure has a functional or operational need to be located within an Identified Area:

- a) *Avoid adverse effects on the values of the Identified Area to the greatest extent practicable.*

- b) Where adverse effects cannot practicably be avoided, then mitigate or remedy adverse effects on the values of the Identified Area to the greatest extent practicable.
- c) Offset any remaining significant residual adverse effects that cannot be practicably avoided, remedied or mitigated.