

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) Hearing 3
Topic 3: Strategic Objectives

BY **TATA VALLEY LIMITED**

Submitter

**STATEMENT OF PRIMARY EVIDENCE OF CHRISTOPHER JAMES SCRAFTON
ON BEHALF OF TATA VALLEY LTD
Planning**

Dated: 15 October 2019

BUDDLEFINDLAY

NEW ZEALAND LAWYERS

Barristers and Solicitors
Auckland

Solicitor Acting: **Vanessa Evitt / Mathew Gribben**

Email: vanessa.evitt@buddlefindlay.com / mathew.gribben@buddlefindlay.com

Tel 64-9-358 2555 Fax 64-9-358 2055 PO Box 1433 DX CP24024 Auckland 1140

1. EXECUTIVE SUMMARY

- 1.1 In this statement of evidence, I provide a summary of the amendments sought by TaTa Valley Limited (**TVL**) in relation to the Proposed Waikato District Plan (**PWDP**) Hearing 3: Strategic Objectives and my response to the relevant recommendations in the Section 42A Report.
- 1.2 The key points from my statement of evidence are:
- (a) I consider the scope of the s42A Report is unclear as to which objectives and policies are included and discussed in the report. There is a risk that matters that are assumed to be addressed through later hearings are actually settled through Hearing 3. I therefore seek feedback from the s42A Reporting Officer to confirm my assumption or otherwise in their rebuttal evidence as to the scope of the objectives and policies that fall within this Hearing Topic.
 - (b) Further thought should be undertaken regarding the development of the proposed strategic direction section of the PWDP. I consider the strategic directions chapter should either be deleted or be restructured and rewritten to be consistent with the National Planning Standards (refer to my suggested amendments in Attachment 1). I consider that it would be helpful for expert planning conferencing to be undertaken on the matter of how the Standards can be implemented through this process in particular, in relation to the content and form of the Strategic Directions and whether there should be related Strategic objectives.
 - (c) I do not consider the term 'strategic' should be used in reference to objectives and policies of the PWDP as this gives them an elevated status that is uncertain and may not be warranted. The Strategic Objectives that are recommended to be included within the Strategic Direction section of the PWDP should be relocated to the various sections of the PWDP that they were extracted from, no longer identified as strategic objectives and subsequently considered through the associated Chapter hearings.
 - (d) Objective 5.1.1 should be amended to acknowledge the number of activities other than those that rely on the productive value of the land that should be supported in the rural environment.

- (e) I consider master, structure and precinct plans should be included as a method or tool referenced in the PWDP with appropriate terminology consistent with the Standards.
- (f) I also provide comment on matters relating to objective 4.1.1, policy 4.1.6, policy 4.1.11 and policy 4.1.3(b).

2. INTRODUCTION

- 2.1 My name is Christopher James Scrafton. I am a Technical Director – Planning in the consultancy firm of Beca. I have over 18 years' experience in town planning.
- 2.2 I have previously set out my qualifications and experience of particular relevance in my planning evidence in relation to Topic 2 and as such, I do not repeat that information here.
- 2.3 I have been engaged by TVL to prepare and present this planning evidence to the Hearings Panel in relation to TVL's submission and further submission points relating to the Section 42A Report for Hearing 3: Strategic Objectives (**Report**). TVL is submitter number 574 and further submitter number 1340.
- 2.4 In preparing this evidence I have reviewed the Section 42A Report: Hearing 3 and Appendices relating to Hearing 3 of the PWDP and Further Submissions that are relevant to TVL and the Report.
- 2.5 TVL filed opening legal submissions which provided an explanation of TVL's submission and related consent application packages.¹ The planning evidence prepared on behalf of TVL in relation to Hearing 1² also provided a summary of TVL's interests and submission. As such I have not repeated that material in any detail in this statement.
- 2.6 This statement of evidence addresses:
 - (a) The scope of the Report and the risk of submission points being addressed at the wrong hearing or falling through the gaps;
 - (b) Appropriateness and use of "Strategic Directions";
 - (c) Appropriateness of shifting of strategic objectives to Chapter 1 of the PWDP;

¹ Opening Legal Submissions on behalf of Havelock Village Ltd and TaTa Valley Ltd 26 September 2019.

² Statement of Primary Evidence of Ailsa Fisher on behalf of TaTa Valley Ltd (Hearing 1).

- (d) Use of master, structure and precinct plans as district plan methods within the PWDP;
- (e) Discussion regarding the inclusion of Objective 4.1.1, and Policies 4.1.6, 4.1.11, 4.7.10 and 5.1.1 from Chapter 4: Urban Environment in this Topic and commentary on the changes proposed.

3. CODE OF CONDUCT

- 3.1 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.

4. OVERVIEW OF TVL'S PRIMARY RELIEF AND CHANGES SOUGHT TO THE PWDP IN TOPIC 3

- 4.1 TVL is seeking to develop and operate the TaTa Valley Resort (**Resort**). The vision for the Resort is to create an example of New Zealand rural living where visitors can relax, explore and be entertained with a variety of attractions. It will encompass a hotel with associated restaurant, spa and conference spaces. It will also include tourist attractions such as a farm park, a New Zealand Made hub to showcase local and regional products, and outdoor recreation opportunities connecting to the Waikato River. As part of that development, TVL also wish to provide a visitor ferry service running along the Waikato River from a proposed satellite site in Mercer to its main TaTa Valley site in Pokeno.
- 4.2 Given the limitations of the existing rural zone and the nature of the Resort activities proposed, a bespoke zone is sought for the TaTa Valley site, with site specific provisions and a masterplan to complement development. To enable this development, TVL also has a number of resource consent application packages underway, which tie into its re-zoning request. In addition, to the bespoke zoning provisions TVL also seeks a range of amends to the PWDP to appropriately recognise and provide for its development proposal and ensure the necessary planning provisions are in place. In terms of this Topic 3, TVL seeks amendments to the strategic direction and associated objectives to:
- (a) recognise and promote opportunities for economic growth and development being one of the identified issues for the district;

- (b) recognise that productive rural activities can also provide important opportunities for rural tourism, which showcases rural character and promotes the rural environment;
- (c) ensure that protection of high value areas such as outstanding landscapes and natural features and significant ecological areas is appropriately confined to those features or values that have significant or outstanding value; and
- (d) to ensure an appropriate balance between enablement of rural development and protection of significant natural values.

5. CLARITY OF SCOPE OF S42A REPORT: HEARING 3

5.1 The Section 42A Report states³ that its scope relates to ‘some’ of the provisions, objectives and policies from Chapters 1.12, 4, 5 and 6 of the PWDP and that the “scope of this Section 42A report relates to the wording, location and linkages between strategic directions, objectives and policies.” I infer from this sentence that only “strategic” directions, objectives and policies are discussed in this report. From my review of the Report, I agree that this is largely the case. However I also note that other objectives and policies are discussed in this report are not identified as “strategic”. Examples of these are the objectives and policies within Chapters 4.7⁴ and 5.5⁵ of the PWDP which fall under the umbrella headings Urban Environment and Rural Environment respectively. These are discussed in sections 31 – 45 and 47 of the Section 42A Report. I have not found any reference in the PWDP that would suggest that these provisions are considered “strategic”. Waikato Regional Council also seeks clarification around the strategic objectives and policies in each policy chapter.⁶

5.2 For the above reasons, I consider the scope of the Report is unclear and subsequently, I consider that there is a risk that matters that are assumed to be addressed through later hearings are actually settled through Hearing 3. For example, amendments to policies within Chapter 4 recommended by the Section 42A Reporting Officer. In this regard, it is my assumption that any submissions and further submissions within Chapters 4 – 6 that are not discussed in the Report will be covered later in Section 42A Reports and Hearings.

³ Paragraphs 13 – 14, Section 42A Report: Hearing 3.

⁴ Chapter 4.7 Urban Subdivision and Development, PWDP.

⁵ Chapter 5.5 Hamilton’s Urban Expansion Area, PWDP.

⁶ Waikato Regional Council (81.1).

5.3 It would be helpful for the Section 42A Reporting Officer to confirm my assumption or otherwise in their rebuttal evidence.

5.4 I also consider it important that the provisions discussed at this Hearing be 'rechecked' at subsequent hearings after consideration of amendments to other objectives and policies, methods and rules (amongst others), in order to review and confirm that the cascade of provisions is effectively aligned.

6. STRATEGIC DIRECTIONS – PURPOSE AND CONSISTENCY WITH NATIONAL PLANNING STANDARDS

6.1 Waikato Regional Council seek to clarify whether the provisions within Chapter 1.12 *Strategic directions and objectives for the district* of the PWDP are strategic objectives or desired outcomes.⁷ The Section 42A Reporting Officer discusses the mandatory directions of the National Planning Standards (the **Standards**) in relation to the Strategic Direction section of a District Plan.⁸

6.2 Section 7 of the National Planning Standards states that, if the following matters are addressed, they must be located under the Strategic direction heading:

- (a) An outline of the key strategic or significant resource management matters for the district
- (b) Issues, if any, and objectives that address key strategic or significant matters for the district and guide decision making at a strategic level;
- (c) Policies that address these matters, unless those policies are better located in other more specific chapters; and
- (d) How resource management issues of significance to iwi authorities are addressed in the plan.

6.3 In addition:

- (a) Rules must not be included under the Strategic direction heading;
- (b) An urban form and development chapter must be included under the Strategic direction heading; and

⁷ Refer to submission points 81.76 – 81.82 of Waikato Regional Council.

⁸ Paragraph 29 of the Section 42A Report: Hearing 3.

- (c) Each Strategic direction matter must be its own chapter and be included alphabetically under the Strategic direction heading.
- 6.4 As per Table 4 of the Standards, the Strategic Direction section of the District Plan must be within Part 2 – District Wide Matters.
- 6.5 To summarise the above:
 - (a) In order to be consistent with the Standards, Chapter 2 (not Chapter 1) of the District Plan should be the District Wide matters. Any strategic Direction should be part of this Chapter. The Strategic Direction section of Chapter 2 could include:
 - (i) Individual sections within the chapter addressing each “strategic direction matter” in alphabetical order;
 - (ii) Issues (if any);
 - (iii) Objectives that address key strategic or significant matters for the district and that guide strategic decision making;
 - (iv) Any related policies unless those policies are better located in more specific chapters; but
 - (v) Must include an urban form and development section.
- 6.6 In my view, what was notified and what has been recommended by the Section 42A Reporting Officer does not meet the requirements of the Standards. For example:
 - (a) The strategic direction section of the PWDP is contained in Chapter 1;
 - (b) There is no outline of the key strategic or significant resource management matters for the District in the PWDP. There are issues described in Chapter 1 but it is not clear if they are the key strategic or significant resource management issues for the District. Assuming this is the case, they should be identified as such. Given the priority this will then afford those issues, to avoid any natural justice concerns further evidence maybe needed on framing these issues as part of the wrap up/consequential matters to be considered at the latter part of the hearing process;

- (c) It is unclear how the strategic directions relate to the issues within the PWDP. In this regard, it is unclear how the proposed strategic directions or strategic objectives respond to the issues;
- (d) There is no identification of related policies;
- (e) There is no urban form and development section.

6.7 In addition to the above, in my view, there are a number of further issues associated with what was notified and what is recommended by the Section 42A Reporting Officer with regards to Strategic Directions:

- (a) Section 1.12.1 is identified as strategic direction but what follows is a discussion of Future Proof, Structure Plans and the NPS:UDC. In my view, Section 1.12.1 serves no purpose in the PWDP and should be deleted.
- (b) Section 1.12.2 is also headed Strategic Direction and this appears to include the proposed strategic directions or least a summary of them. Section 1.12.3 to 1.12.8 then includes further strategic directions under topic headings which structurally is more consistent with what is anticipated by the Standards. In my view, this is likely to create a lot of uncertainty and misinterpretation for plan users.
- (c) The Section 42A version of the provisions seems to contain an oversight as 1.12.2(a) implies that paragraph (b), regarding urban form, is not a strategic direction, when clearly it is.
- (d) The Strategic Directions in sections 1.12.2 to 1.12.8 are drafted like objectives and are likely to be considered as such through the formulation of other plan provisions and through a resource consent process. In my view this is inappropriate and is likely to create a lot of uncertainty and misinterpretation for plan users.
- (e) I note that the s42A Reporting Officer states that the provisions of 1.12.2 - 1.12.8 are overarching directions.⁹ The Section 42A Reporting Officer does not comment on the need to rewrite these in a manner more reflective of 'overarching directions'. I disagree with the Reporting Officer and consider that further consideration of the intent of sections 1.12.2 to 1.12.8 is required. As a minimum, I consider that sections 1.12.2 to 1.12.8 should be

⁹ Paragraph 28 of the s42A Report: Hearing 3.

clearly identified as not being objectives and not matters for consideration in accordance with section 104 or 104D of the RMA.

- (f) The Strategic Directions and associated Objectives are separate and it is difficult to understand any relationship or “cascade” between them. In this regard, I note that the Proposed Whangarei District Council Strategic Direction section of the plan¹⁰ includes the strategic direction and associated objective within a table clearly identifying the relationship. I also note that these tables are located directly below the significant issues for the District.
- (g) Following on from the above point, in my view, it should not be necessary to have an introduction to explain the relationship between the directions and objectives¹¹ as good practice plan provisions should be able to stand alone without additional introduction or explanation.
- (h) Policies are separated from the objectives and it is difficult to understand any relationship or “cascade” between the objectives and policies.

6.8 In summary, I consider that the Strategic Direction section of the PWDP requires significant redrafting before it should be considered fit for purpose.

6.9 However, if the Panel considers that the Strategic Direction section should be retained in its current form I have prepared a limited series of amendments, outlined in Attachment 1, to address the most significant drafting issues. In summary, the amendments are to:

- (a) Expressly state that the strategic directions should be read as a whole when developing provisions. This is to ensure an appropriate balance between those objectives that enable development and those that seek to protect high value areas.
- (b) Expressly state that the strategic directions should not be a consideration in a resource consent process.
- (c) Ensure that the urban form provisions in 1.12.2(b) is clearly part of the strategic directions.

¹⁰ Urban and Services plan change.

¹¹ Paragraph 32(a) of the Section 42A Report: Hearing 3.

- (d) Amend the Natural Environment direction to:
 - (i) Protect only outstanding biodiversity, landscapes and features. This is consistent with section 6 of the RMA and the Waikato Regional Policy Statement; and
 - (ii) Remove reference to protecting natural character of the rural environment, since that issue will be covered by the natural environment direction to the extent that any outstanding landscapes, features or significant biodiversity values required protection. As previously discussed, enablement of rural activities can also be inconsistent with the protection of natural character and an appropriate balance is required.
- (e) Include a new direction for the Rural Environment as there appears to be a gap where the summary in 1.12.2(b)(vii) appropriately recognises the ongoing operation and development of rural activities but there is no equivalent substantive direction.
- (f) Relocate the direction about public open space to the Community Wellbeing direction.
- (g) Add a reference to community "aspirations" as this more appropriately matches the direction in the summary to encourage community collaboration in urban growth decisions.
- (h) Add reference to economic growth and opportunities in the summary of the strategic directions in 1.12.2 (b) as this has been appropriately covered in the substantive directions that follow but is not currently noted in the summary paragraph.

7. STRATEGIC OBJECTIVES

- 7.1** A number of submissions seek to move strategic objectives into one Chapter of the PWDP.¹² The Section 42A Reporting Officer agrees that it is appropriate to move the strategic objectives into a new Chapter at the start of Section B¹³ as in his view, this

¹² Including submissions Future Proof Implementation Committee (606.2) and Waikato District Council (697.314).

¹³ Paragraph 30 of the Section 42A Report: Hearing 3 – however I note that in their recommended amendments in Appendix 1, the objectives have been moved to Chapter 1.13 which is within Section A of the PWDP.

is consistent with the Standards and provides a clearer relationship between strategic directions and objectives.¹⁴

- 7.2 I disagree with the recommended structuring of this Chapter. In my view, to be consistent with the Standards, the Objectives that look to achieve the Strategic Direction of the PWDP should be contained in Chapter 2 which should be headed District Wide Matters. I consider the location of the Objectives should be aligned with the structure of the Standards¹⁵ or alternatively (if the restructure does not occur to align with the Standards at this point in time) as a standalone Chapter following Chapter 1. I consider that embedding the provisions within a general introductory Chapter does not provide for the prominence that should be afforded to such provisions and does not fit with the intent and purpose of other subsections of Chapter 1.
- 7.3 With regards to the recommendation of including “strategic” objectives in the PWDP, I understand “strategic” objectives to be objectives related to the strategic directions that in some cases do¹⁶ and in some cases do not¹⁷ take precedence over other provisions of the Plan. I do not support the use of “strategic” objectives particularly so when they are given an elevated status above other objectives within the Plan for the following reasons:
- (a) The Standards do not require the identification of strategic objectives. The Standard does allow for the Strategic direction section to include “objectives that address key strategic or significant matters for the district”;
 - (b) There is no clear rationale in the PWDP or the Section 32 Report why some strategic objectives are given an elevated status and others are not;
 - (c) There is no requirement in the RMA to identify any objectives as “strategic” nor to consider objectives and policies differently when assessing resource consent applications. It is unusual and potentially problematic to differentiate objectives in this way;
 - (d) The drafting of a number of “strategic” objectives is in many cases inappropriately restrictive¹⁸. In my view, giving such a restricted range of objectives an elevated status effectively removes any flexibility and proper

¹⁴ Paragraph 30 of the Section 42A Report: Hearing 3.

¹⁵ Part 2: District Wide Matters includes ‘Strategic Direction’ as the first section where strategic objectives should be located.

¹⁶ Eg Strategic Objective 1.13.3.

¹⁷ Eg Strategic Objective 1.13.2.

¹⁸ E.g. Strategic Objective 1.13.3(ii): productive rural activities are supported, while maintaining or enhancing the rural environment.

consideration of all relevant matters. It essentially directs that a number of land uses be prohibited activities without recognising them as such within the Plan. I have proposed amendments later in my evidence to the strategic objective for the rural environment to partly address this concern;

- (e) There does not appear to be justification within the Section 32 Report: *Strategic Direction and Management of Growth* for the use of the word “strategic” in relation to objectives;
- (f) Guidance from the Ministry for the Environment (**MfE**) in relation to the Standards notes that “strategic direction is often supported with objectives and policies that tend to relate to the whole city/district and may include cross-cutting issues.”¹⁹ From my reading of the PWDP, objectives and policies identified as “strategic” can apply district wide or in more than one zone, consistent with the guidance from MfE;
- (g) Moving Objective 6.1.1, about the rural environment, into a new Chapter 1.13 would leave the subsequent policies on their own in Chapter 6 which in my opinion is not effective in considering the cascade approach and interrelationship between objectives and policies. Additionally, the separation of objectives and policies is potentially confusing for plan users. I also note that the Standards provide for related policies to be included in the Strategic Directions section of the PWDP. I consider that the objectives and policies should be located together, preferably in chapter 6, to be consistent with the Standards;
- (h) The Section 42A Reporting Officer does not recommend shifting “strategic” objectives of Chapter 3 and 7-10 (although they are noted in paragraph 26 of the Report as having “strategic” objectives within them). Again, the wording of the PWDP is not consistent in terms of explicitly identifying which objectives (and policies) are considered “strategic” (either in the Chapter headings or introductory text to the objective). For consistency I consider all “strategic” objectives and policies should be shifted into one Chapter or preferably the concept of strategic objectives is removed from the PWDP and the objectives are retained in the relevant chapters.

¹⁹ <https://www.mfe.govt.nz/sites/default/files/media/RMA/guidance-for-district-plan-structure-and-chapters-standard.pdf>

Strategic Objective 5.1.1 – the rural environment

7.4 Putting aside the appropriate location and "strategic" label of this Objective, a number of submissions seek to amend Objective 5.1.1 including adding additional new clauses around protecting natural resources, recreational values and landscape amenity values²⁰ and to include a definition for 'productive rural activities' which is referenced in Objective 5.1.1.²¹

7.5 In addition to relocating objective 5.1.1 to the "Strategic Direction" section of the PWDP, I also note the Section 42A Reporting Officer recommends accepting the submission to include a definition of 'productive rural activities'²² but does not suggest what the definition should be. I assume that this matter will be discussed in more detail in the Definitions hearings however to assist in understanding the implications of recommended amendments to the Objective, I note that the Auckland Unitary Plan defines 'rural production activities' as

Activities that involve the production of primary products such as those from farming, intensive farming, horticultural, or forestry activities, and which have a functional need for a rural location.

7.6 I consider this to be an appropriate definition and would support its (or similar) inclusion in the PWDP.

7.7 Sub point (ii) of the Objective seeks to support rural productive activities whilst maintaining or enhancing the rural environment. In my view, this part of the Objective fails to recognise that the rural environment is highly diverse. By way of example, the rural environment of the former Franklin District includes:

- (a) Highly valued wetlands such as the Whangamarino wetlands;
- (b) What is now identified as a major recreation facility (but was previously zoned rural) in the Pukekohe raceway which generates significant noise;
- (c) Areas of productive farming;
- (d) Less productive areas of lifestyle farming; and
- (e) Areas for mineral extraction.

²⁰ Auckland Waikato Fish and Game Council (433.47).

²¹ T&G Global Limited (676.1).

²² Paragraph 403 of the Section 42A Report: Hearing 3.

- 7.8 From my experience, unless guidance is provided, the interpretation of what is meant by the term “rural environment” generally envisages a pristine, quiet natural landscape. In my view, this is not always the case and the rural environment varies significantly from place to place depending on what activities are being undertaken. Rural areas are also working environments where productive activities occur and high levels of amenity or preservation of natural character cannot always be achieved or maintained. A number of activities that are undertaken within the rural environment can generate significant effects such as noise, traffic and dust.
- 7.9 I consider that there are a number of activities other than those that rely on the productive value of the land that should be supported in the rural environment. There are a number of activities that rely on other features of the rural environment (such as large areas of open space) that are appropriately located within some rural environments. In my view, rural tourism is an activity that relies on the rural environment and should similarly be supported within the PWDP.
- 7.10 Having regard to the above and subject to my previous recommendations regarding Strategic Objectives, I provide the following recommended amendments to the drafting of Objective 1.13.3:

Subdivision, use and development within the rural ~~environment~~ zones where:

- (a) High class soils are protected for productive rural activities from inappropriate subdivision, use and development;*
- (b) ~~Productive rural activities are supported, while maintaining or enhancing the rural environment;~~ A range of appropriate land uses in the Rural Zones, including rural production activities, rural tourism, rural residential, rural lifestyle, rural industries, activities ancillary to farming or forestry and mineral extraction activities are provided for.*
- (c) Inappropriate urban subdivision, use and development, within the rural environment is avoided.*

8. CONCLUSION REGARDING STRATEGIC DIRECTIONS AND STRATEGIC OBJECTIVES

8.1 In summary I consider that:

- (a) The Strategic Objectives that are recommended to be included within the Strategic Direction section of the PWDP should be relocated to the various sections of the PWDP that they were extracted from, no longer identified as

strategic objectives and subsequently considered through the associated Chapter hearings. In the alternative, if those objectives are not relocated and considered at a later point then I have suggested some amendments to Rural Objective 1.13.3 to capture key amendments that are required.

- (b) Further thought should be undertaken regarding the development of the proposed strategic direction section of the PWDP. In this regard, and as noted above, I consider that the Strategic Direction section of the PWDP requires significant redrafting before it should be considered fit for purpose.
- (c) Having regard to the points above, and the comments from the Hearing 2 Section 42A Reporting Officer regarding the potential opportunity to find “easy wins” in the implementation of the Standards, I consider that it would be helpful for expert planning conferencing to be undertaken to examine in greater detail how the Standards can be implemented through this process and importantly the inclusion and/or role of the proposed strategic directions and objectives covered in this Topic 3. Preferably this would be undertaken in advance of the Definitions Hearing. Agenda items could include:
 - (i) To what degree can the Standards be appropriately implemented through this PWDP process having regard to:
 - (1) Scope; and
 - (2) Natural justice issues.
 - (ii) Identification of aspects of the Standards that could be implemented within the timelines of the current process and proposed steps to achieve that.
 - (iii) The appropriateness of the inclusion and/or role of strategic directions and objectives as contemplated by the Standards.
 - (iv) What process should be adopted to ensure those parties not involved in conferencing have sufficient opportunity to consider matters agreed and not agreed through conferencing and to allow the Hearing Panel to hear from the relevant experts and ask questions.

9. USE OF MASTER, STRUCTURE AND PRECINCT PLANS AS A DISTRICT PLAN METHOD

- 9.1 Two sections of the Section 42A Report discuss the use of master plans and structure plans within the PWDP.²³ One submitter seeks to delete Chapter 1.12.1(b) and (c) and has queried the legality of the use of Structure Plans and Master Plans where the activity status of a proposal is determined through such documents. The submission also seeks clarification about what is meant by a Master Plan.²⁴ The Section 42A Reporting Officer notes that the intent of this provision is to set out the purpose of the master or structure plan process²⁵ and the PWDP in general does not use compliance with a master or structure plan to determine activity status (although he points out that Chapter 28: Rangitahi Peninsula Zone does use compliance with the Rangitahi Peninsula Structure Plan to determine activity status).
- 9.2 Two submitters seek amendments to Policy 4.7.14 *Structure and Master Planning*²⁶ to clarify that the policy relates to structure and master plans included within the PWDP.²⁷ Two submissions seek to delete the policy, querying the legality of structure plans.²⁸
- 9.3 The Section 42A Reporting Officer recommends that Chapter 1.12.1(b) and (c) be retained and be amended to include reference to structure plans as well as master plans²⁹ and to add wording to Policy 4.7.14 to clarify that the policy relates to structure and master plans included within the PWDP. The Section 42A Reporting Officer does not consider that there is an issue including reference to structure plans within the PWDP at a policy level rather than the rule level.³⁰
- 9.4 In relation to these submissions I have three general points:
- (a) The use of master and structures plans as a method or tool;
 - (b) The terminology to be used in the PWDP; and
 - (c) The additional reference to precincts within the PWDP.

²³ Section 6 and 45 of the Section 42A Report: Hearing 3.

²⁴ Anna Noakes (524.10).

²⁵ Paragraph 46 of the Section 42A Report: Hearing 3.

²⁶ Located in Chapter 4.7 Urban Subdivision and Development.

²⁷ Ian McAlley (368.42) and Synlait Milk Ltd (581.10).

²⁸ Anna Noakes (524.21) and Withers Family Trust (598.32).

²⁹ Paragraph 53 of the Section 42A Report: Hearing 3.

³⁰ Paragraph 387 of the Section 42A Report: Hearing 3.

Use of Master and Structure Plans as a Method

- 9.5 Master and structure plans are commonly used methods to plan future land use development. Generally speaking, structure plans are used for larger scale areas and masterplans are more detailed. These plans are informed by technical investigations and analysis at a level commensurate to the detail required for the output and to enable informed decision making.
- 9.6 The resulting land use decisions can be incorporated into a District Plan through a plan change process such as embedding the plan itself into the District Plan or amending District Plan zoning or provisions to provide for the outcomes of the plan generally through a Schedule 1 RMA process. This has occurred for example in relation to the Rangitahi Peninsula Zone (and supporting Structure Plan) which is included in the notified PWDP. Two recent Structure Plans finalised in Auckland include Warkworth³¹ and Whenuapai³² Structure Plans. Both plans note that they will be the foundation to inform future plan changes to rezone the land within the Unitary Plan.
- 9.7 I consider that Chapter 1.21.1(b) and (c) gives helpful guidance and context around the use of such a tool and should be retained. I consider the use of such a method will help to achieve the objectives of the PWDP (including strategic objectives 4.1.1 and 4.1.2) and give effect to the Waikato Regional Policy Statement (**Waikato RPS**), notably policy 6.1 (and subsequent methods 6.1.1 and 6.1.7).³³

The terminology to be used in the PWDP

- 9.8 Table 18 of the Standards sets out the spatial layers available for use in District Plans. Master and structure plans (amongst others) are provided for under the general term 'development areas'. Table 18 of the Standards also provides a general function of what a 'development area' is.³⁴ In my view, references in the PWDP to 'master plans' or 'structure plans' (or indeed, any of the plans that fall under 'development areas') should be amended to be consistent with the Standards

³¹ <https://www.aucklandcouncil.govt.nz/have-your-say/topics-you-can-have-your-say-on/warkworth-structure-plan/draftwarkworthstructureplan/warkworth-structure-plan-2019.pdf>

³² <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/place-based-plans/Documents/whenuapai-structure-plan-september-2016.pdf>

³³ Refer to <https://www.waikatoregion.govt.nz/assets/WRC/Council/Policy-and-Plans/RPS-Regional-Policy-Statement/RPSv2018.pdf>

³⁴ As per table 18 of the Standards, a development area spatially identifies and manages areas where plans such as concept plans, structure plans, outline development plans, master plans or growth area plans apply to determine future land use or development. When the associated development is complete, the development areas spatial layer is generally removed from the plan either through a trigger in the development area provisions or at a later plan change.

(concept plans, structure plans, outline development plans, master plans or growth area plans³⁵).

- 9.9 The Resort Zone proposed by TVL is overlaid with a precinct plan. The activity status of activities within the proposed Resort Zone is determined through its location in the precinct plan. The precinct plan was informed by environmental assessments undertaken by a number of technical specialists.³⁶
- 9.10 For reasons similar to that discussed in paragraph 9.5-9.7 above I consider the use of precinct plans is an appropriate method to achieve the objectives of the PWDP and give effect to the RPS. The use of precinct plans allows incorporation of more refined place making provisions. In addition I note the use of precincts as a district plan method is already provided for in the PWDP.³⁷ Precincts are a commonly used method elsewhere in New Zealand: the Auckland Unitary Plan has a vast number of precincts within Chapter 1. I understand there is no legal impediment to using Precinct Plans and they act as more fine-grained planning maps.
- 9.11 The current PWDP precincts also contain rules which link activity status to specific precincts³⁸ such as that proposed in the Resort Zone precinct plan. I consider this to be appropriate given the level of technical investigations undertaken to inform the precinct plan. I understand that as long as the precinct plan is clear and unambiguous there is no legal impediment to using a precinct plan to determine activity status.
- 9.12 I also note precincts (and their subsequent function)³⁹ are provided for as a spatial layer in table 18 of the Standards.
- 9.13 Given the above I consider that precincts should also be referred to in Chapter 1.12.1(b) and (c) and policy 4.7.14. Although Policy 4.7.14 of the PWDP, regarding structure and master planning, is located within the Urban Environment part of the PWDP I consider that master plans can also be used in the Rural Environment in certain circumstances, like for the Resort Zone at TaTa Valley.

³⁵ Development areas, Table 18: National Planning Standards.

³⁶ The technical investigations are summarised in the evidence of Ailsa Fisher for TVL (Hearing 1).

³⁷ Refer to Matangi and Huntly Heritage precincts and Hampton Downs Motorsport Park precincts.

³⁸ Refer to Chapter 26: Hampton Downs Motorsport Park provisions.

³⁹ As per table 18 of the Standards, a *precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s)*.

10. OBJECTIVE 4.1.1 - STRATEGIC

- 10.1 Ngati Tamaoho Trust seeks to add an extra clause to Objective 4.1.1 to maintain or enhance natural waterbodies within integrated development for towns and promote park edge development for all open spaces.⁴⁰ TVL opposed this as further submission FS1340/86. Ngati Te Ata sought this relief for all town centre objectives.⁴¹
- 10.2 The Section 42A Reporting Officer states that this addition is not 'strategic' and should be addressed in a specific chapter⁴² and recommends the submission be rejected. I agree with the Section 42A Reporting Officer in this regard.

11. POLICY 4.1.6 – COMMERCIAL AND INDUSTRIAL ACTIVITIES

- 11.1 Two submitters seek to separate commercial and industrial development within policy 4.1.6 to give guidance on appropriate locations for these activities in specific zones.⁴³ The Section 42A Reporting Officer concurs with the submissions and recommends changes as such.⁴⁴ As with the relief sought above, I do not consider this to be a "Strategic" matter and consider it would be better addressed through the Industrial Zone hearing (Hearing 7).
- 11.2 Notwithstanding the above, and if this submission point is to remain in Hearing 3, I note that, whilst this policy falls under Chapter 4 "Urban Environment",⁴⁵ commercial development is a broad term which could apply to many zones including within the rural environment. In this regard, the proposed Resort Zone has a commercial aspect although it occurs within the rural environment. Therefore, I consider that the proposed Resort Zone should be included in Policy 4.1.6.
- 11.3 I note the Section 42A Reporting Officer considers the addition of Huntly Power Station to policy 4.1.6(c) to be appropriate even though it is not in an urban area.⁴⁶

12. POLICY 4.1.11 – POKENO

- 12.1 One submission seeks to add a new clause to policy 4.1.11(a) to recognise the potential effects of development on the Mangatawhiri wetland including ecological,

⁴⁰ Ngati Tamaoho Trust (567.3).

⁴¹ Ngati Te Ata (798.5).

⁴² Paragraph 93 of the s42A Report: Hearing 3.

⁴³ Hamilton City Council (535.17) and NZ Transport Agency (742.12).

⁴⁴ Paragraph 139 of the s42A Report: Hearing 3.

⁴⁵ However I note that as a strategic policy, this is potentially going to be shifted to Chapter 1.

⁴⁶ Paragraph 139 of the s42A Report: Hearing 3.

biodiversity and hunting values.⁴⁷ TVL opposed this submission⁴⁸ noting that such effects are addressed elsewhere in the PWDP.

12.2 The s42A Reporting Officer states that the distance between Mangatawhiri Wetlands and the urban extent of Pokeno is unlikely to result in reverse sensitivity effects⁴⁹ on the recreational and other values of the wetland and therefore recommends the submission be rejected.

12.3 I reiterate TVL's further submission, noting that the Mangatawhiri wetland is subject to a protective overlay PWDP⁵⁰ which recognises its ecological and biodiversity values. Land use proposed within the wetland will be subject to the rules of this overlay. Policy 4.7.11 relates to managing reverse sensitivity in relation to subdivision and urban development.⁵¹ As proposed the policy fairly wide ranging in its application, and in my opinion would provide for the relief sought by submitter 433.43.

12.4 For these reasons I agree with the Section 42A Reporting Officer that the submission be rejected.

13. **POLICY 4.1.3(B) LOCATION OF DEVELOPMENT**

13.1 As currently proposed, Policy 4.1.3(b) of the PWDP seeks to locate urban growth areas only where they are consistent with the Future Proof Strategy Planning for Growth 2017.

13.2 The Future Proof Strategy 2009 was incorporated within the RPS,⁵² primarily within Chapter 6: Built environment. The 2009 version of Future Proof does not include the Franklin area (which was not part of the Waikato District at the time) and to manage this, policy 6.12 of the RPS requires growth within the Franklin area of the Region to be in accordance with the Franklin District Growth Strategy (**FDGS**) until the Future Proof growth strategy and relevant district plans are amended. As per section 75(3)(c) of the RMA, the PWDP is required to give effect to the Waikato RPS.

⁴⁷ Auckland Waikato Fish and Game Council (433.43).

⁴⁸ FS1340/67.

⁴⁹ Paragraph 184 of the s42A Report: Hearing 3.

⁵⁰ Identified Significant Natural Feature in the Operative District Plan and proposed Significant Natural Area in the PWDP.

⁵¹ 4.7.11 Policy – Reverse sensitivity

(a) Development and subdivision design minimises Reverse sensitivity effects on adjacent sites, adjacent activities, or the wider environment; and

(b) Avoid potential Reverse sensitivity effects of locating new dwellings in the vicinity of an intensive farming, extraction industry or industrial activity.

⁵² Made operative in 2016.

13.3 The updated Future Proof Strategy was released for public consultation in July 2017 and public hearings were held in August 2017. Thirty-one submitters were involved in the hearing process. Changes to the Future Proof Strategy were approved by the Future Proof Implementation Committee on 30 October 2017. I note that phase 2 of the Strategy is still in progress. The RPS has yet to be updated to incorporate the 2017 version of Future Proof.

13.4 To summarise the above:

- (a) The RPS currently incorporates the 2009 version of Future Proof and not the 2017 version. As per section 75(3)(c) of the RMA, the PWDP is required to give effect to the Waikato RPS including those parts of the RPS that have incorporated the 2009 version of Future Proof.
- (b) The 2009 version of Future Proof (including how it has been incorporated into the RPS) does not currently apply to the former Franklin District. The FDGS applies instead and will continue to do so until Future Proof and the relevant District Plan are updated.
- (c) The 2017 version of Future Proof is currently being updated by Future Proof. Given this version of Future Proof is yet to be incorporated into the RPS, the PWDP must have regard to the 2017 version in accordance with section 74(2)(b)(i) of the RMA. However, Policy 6.12 of the RPS appears to provide a mechanism for those parts of the Waikato Region such as the former Franklin District) to be guided by updates of Future Proof (such as the 2017 version) without any further changes to the RPS.

13.5 I consider this means that:

- (a) If the PWDP references the 2017 Future Proof Strategy it risks being inconsistent with the RPS (eg Policy 6.14 – adopting Future Proof landuse pattern) apart from those areas of the Region that are outside of the 2009 version of Future Proof (such as the former Franklin District.
- (b) If the PWDP references the 2017 Future Proof Strategy but only in relation to those areas not covered by the 2009 version of Future Proof (ie Franklin), the PWDP will be giving effect to the RPS.
- (c) The PWDP could continue to reference the 2009 version of Future Proof, await stage 2 of the Future Proof update to be complete and I assume the

subsequent review of the RPS, and then look to give effect to an updated Future Proof through a future schedule 1 RMA process but this would not properly give effect to Policy 6.12 of the RPS which contemplates development in accordance with subsequent Future Proof updates eg Future Proof 2017 and Future Proof 2020 (if it is formally adopted via the LGA).

- 13.6 In my view, the most appropriate option is (b), that being that the PWDP should reference the 2017 Future Proof Strategy or any subsequent update but only in relation to those areas not covered by the 2009 version of Future Proof which is incorporated into the RPS (ie for Franklin only). In this regard, I consider Policy 4.1.3(b) and any other references to Future Proof within the PWDP should be redrafted accordingly.

Christopher Scrafton

15 October 2019

ATTACHMENT 1 – PROPOSED AMENDMENTS TO STRATEGIC DIRECTION PROVISIONS

Section 42A report amendments in Red

Amendments in primary evidence of Christopher Scrafton in Blue

1.12 Strategic **directions** and objectives for the district

~~1.12.1 Strategic directions~~

- ~~(a) Waikato District Council as a Future Proof Partner has made a commitment to the Future Proof Strategy which will manage growth for the next 30 years. Settlement patterns are a key tool used within the Future Proof Strategy. They provide the blueprint for growth and development and aim to achieve a more compact and concentrated urban form over time.~~
- ~~(b) Master plans or structure plans are an important method for establishing settlement patterns of land use and the transport and services network within a defined area. They can provide a detailed examination of the opportunities and constraints relating to the land including its suitability for various activities, infrastructure provision, geotechnical issues and natural hazards. They should identify, investigate and address the potential effects of urbanisation and development on natural and physical resources.~~
- ~~(c) Master plans or structure plans should explain how future development will give effect to the regional policy statement and how any adverse effects of land use and development are to be avoided, remedied or mitigated by proposed plan provisions. This will ensure that all the effects of development are addressed in advance of development occurring. A master planning is an appropriate foundation for the plan change process required to rezone land. The “Rangitahi Peninsula Structure Plan” is the only structure plan used within this Plan.~~
~~[s42A Report – Section 6 – Strategic Objectives: Master Plans]~~
- ~~(d) The National Policy Statement for Urban Development Capacity 2016 sets monitoring and information requirements for Council to ensure responsiveness and the ability to deliver an adequate supply of development ready land in the right location and at the right time. The intention is to ensure that planning decisions in urban environments are well informed, timely and responsive to changing population growth demands, market conditions and infrastructure delivery.~~
- ~~(e) It is expected that a comprehensive set of key indicators on growth drivers, growth management, and the spatial distribution of growth will include:~~
 - ~~(i) Patterns and composition of population change and growth;~~
 - ~~(ii) Balance of growth inside and outside the existing urban area;~~
 - ~~(iii) Shifts in housing preferences, including location and typology;~~
 - ~~(iv) Key bulk infrastructure delivery and funding availability;~~
 - ~~(v) Changes in strategic direction and/or priorities.~~
- ~~(f) Progress will be measured against the anticipated growth settlement patterns and targets identified in the Future Proof Strategy as well as the indicative timeframes for master plans or structure plans and infrastructure provisions, changes in the growth patterns reported in the Future Proof Monitoring Report, National Policy Statement on Urban Development Capacity assessments and monitoring requirements.~~

1.12.82 Strategic **directions objectives**

~~[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]~~

- ~~(a) The **matters directions** set out in paragraphs ~~4.1.1 – 4.1.7~~ 1.12.2(b) and - 1.12.3 – 1.12.8 provide the overarching directions for the development of the objectives, policies and other~~

provisions within the district plan. The directions need to be read as a whole and all directions considered together when developing any objectives, policies and other provisions. They are not a matter for consideration under section 104 or 104D of the Resource Management Act 1991.

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

(b) In summary, the overarching directions include the following:

- (i) Urban development takes place within areas identified for the purpose in a manner which **utilises and integrates** land and infrastructure most efficiently.

[s42A Report – Section 11 - Strategic Objectives]

- (ii) Promote safe, compact sustainable, good quality urban environments that respond positively to their local context.
- (iii) Focus urban growth in existing urban communities that have capacity for expansion.
- (iv) Plan for mixed-use development in suitable locations.
- (v) Encourage community collaboration in urban growth decisions
- (vi) Protect and enhance green open space, outstanding landscapes and areas of cultural, ecological, historic, and environmental significance.**
- (vii) Promote the on-going operation and development of rural production activities, including rural tourism, rural industry, services and other activities utilising the resources of the rural area.**
- (ix) Maximise opportunities for employment and economic growth**

[s42A Report – Section 11 - Strategic Objectives]

(c) The **strategic objectives and policies** that implement the strategic directions are included within **Section 1.13 and cross referenced to the relevant chapters in** Part B of the district plan **(where they are relevant) at the beginning of each section.** They **also** assist in providing an objective that encompasses more than one zone (such as Chapter 4 Urban Environment) or a range of matters (such as Chapter 6 Infrastructure).

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

1.12.23 Direction - Natural environment

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

- (a) A district that protects its significant natural habitat and ecological values and ~~retains its significant~~ the values of its outstanding landscapes and features.

~~(a) A district that retains the natural character of its rural areas and has public open space available and well used by the community [public open space provision relocated to Community Wellbeing below. Natural character is protected by other Natural Environment Direction]~~

1.12A Direction – Rural environment

- (a) A district where a wide range of rural production activities including rural tourism are promoted and enabled.

1.12.34 Direction - Built environment

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

- (a) A district which provides a wide variety of housing forms which reflect the demands of its ageing population and increases the accessibility to employment and community facilities, while offering a range of affordable options.
- (b) A district that encourages and celebrates quality design that enhances and reflects local character and the cultural and social needs of the community.
- (c) A district that has compact urban environment that is focused in defined growth areas, and offers ease of movement, community wellbeing and economic growth.

1.12.45 Direction - Ease of movement

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

- (a) A district which effectively integrates its land use pattern with transport, and encourages the development of an urban form which is less reliant on the private motor vehicle, while reducing the overall effects of transport on the environment.

1.12.56 Direction - Community wellbeing

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

- (a) A district that provides a wide range of easily accessible facilities and activities to serve the community which satisfies the diverse social, cultural and economic needs of the community. A high level of pedestrian amenity, personal safety and the potential for crime is recognised in the design of these public places.
- (b) [A district that has public open space available and well used by the community.](#) [relocated from Natural Environment]

1.12.67 Direction - Employment and economic growth

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

- (a) A district that is recognised as an ideal business location with access to a well-educated and highly skilled workforce and supported by an infrastructure which allows employment and economic growth to be maximised.

1.12.78 Direction - Managing change

[s42A Report – Section 4 - Strategic Objectives: Directions & Objectives]

- (a) A district that effectively consults with and includes its community in decision making while co-operating with other authorities on regionally strategic policy, A district that manages development with master plans that matches ~~the~~ community [aspirations](#), the capacity of the environment and infrastructure and avoids the adverse effects of that infrastructure on communities.

~~1.13 Strategic objectives for the district~~

[relocated to Chapter 6]

~~1.13.3: Strategic Objective – Rural Environment~~

- (a) Subdivision, use and development within the rural environment zones where:
 - (i) High class soils are protected for productive rural activities from inappropriate subdivision, use and development;
 - (ii) Productive rural activities are supported, while maintaining or enhancing the rural environment; A range of appropriate land uses in the Rural Zones, including rural production activities, rural tourism, rural residential, rural lifestyle, strategic rural industries, activities ancillary to farming or forestry and mineral extraction activities are provided for;
 - (iii) Inappropriate urban subdivision, use and development in the rural environment is avoided.