

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a submission by Future Proof Implementation
Committee of the PROPOSED WAIKATO DISTRICT PLAN
pursuant to Clause 6 of Schedule 1 to the Act

**OPENING LEGAL SUBMISSIONS ON BEHALF OF FUTURE PROOF
IMPLEMENTATION COMMITTEE**

Dated 26 September 2019

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INTRODUCTION

1. These opening legal submissions are presented on behalf of the Future Proof Implementation Committee (**Future Proof**), which has lodged a submission in respect of the Waikato District Proposed District Plan (**WPDP**).
2. The purpose of these opening legal submissions is to explain what Future Proof is, and what it does. This will provide the commissioners with an understanding of the role that Future Proof plays in the strategic land use planning of the Future Proof sub-region which includes the Waikato District.
3. These legal submissions will explain the current dynamic state of strategic land use planning in the sub-region, and how that is reflected in the Future Proof submission to the WPDP, and reflected in the relief sought under that submission.
4. These legal submissions are divided into four parts:
 - a) **Part 1:** which sets out an explanation of the role and function of Future Proof;
 - b) **Part 2:** which explains the current state of strategic land use planning in the Waikato sub-region;
 - c) **Part 3:** which addresses the Future Proof submission to the WPDP;
 - d) **Part 4:** which addresses the procedural aspects of this hearing process, and where and when you can expect direct engagement from Future Proof.

PART 1 -The role and function of Future Proof

5. Future Proof is a vehicle for collaboration between Waikato Regional Council, Waikato District Council, Waipa District Council, Hamilton City Council, NZTA, and tangata whenua. It was first established in 2007 and is constituted as a joint committee of the various local authorities, established under Clause 30(1)(b) of Schedule 7 to the Local Government Act 2002.
6. Each of the members appoint delegates to attend Future Proof committee meetings, who are delegated decision making responsibilities on behalf of their respective members. Decision making is consensus based.
7. Future Proof is mandated to develop and implement a 30 year growth strategy specific to the Hamilton, Waipa and Waikato sub -region, which is known as the Future Proof sub-region (**sub-region**). Future Proof provides a framework to manage growth in a collaborative way for the benefit of the sub-region from both a community and physical perspective. This sub-regional approach is needed in order to manage growth in a coordinated manner and to address complex planning issues, especially cross boundary matters.
8. The current Future Proof strategy describes its role as:¹
 - a) providing sub-regional leadership on growth management, infrastructure planning and development;
 - b) setting sub-regional policy approaches relevant to the Future Proof strategy and using these to inform key regional documents such as the Waikato Regional Policy Statement (WRPS), Waikato Regional Land Transport Plan (RLTP) and the Waikato Plan;

¹ Future Proof Strategy 2017

- c) dealing with Cross boundary matters where there are cross boundary implications or an issue transcends a local authority's boundaries;
 - d) implementing and enabling the Future Proof settlement pattern;
 - e) infrastructure/facilities - where this affects more than one Future Proof partner and transcends boundaries (especially transport);
 - f) high level planning and achieving Future Proof outcomes;
 - g) intra and inter regional matters- where there are impacts beyond the sub region that need addressing across the partners, e.g. the influence of Auckland;
 - h) matters of upper North island or national importance that impact on the sub region (e.g. freight movement).
9. The First Future proof strategy was adopted by members and launched by then Prime Minister John Key and King Tuheitia in 2009. Since adoption in 2009, Future Proof has been in an implementation phase and a number of strategy actions have been completed, including embedding the strategy in relevant statutory documents.
10. Of most significance has been the inclusion of the 2009 Future Proof growth management strategy settlement pattern in the WRPS, which became operative in 2013. Section 6: Built Environment, sets out a series of regional policies which give effect to the Future Proof growth management strategy as it stood at the time of its release in 2009. These policies include:
- a) Policy 6.14: Adopting the Future Proof land use pattern;

- b) Policy 6.15: Density targets for Future Proof area;
 - c) Policy 6.16: Commercial development in the Future Proof area;
 - d) Policy 6.17: Rural residential development in the Future Proof area;
 - e) Policy 6.18: Monitoring development in Future Proof area;
 - f) Policy 6.19: Review of Future Proof maps and tables.
11. These WRPS policies reflect a strategic settlement pattern which identifies the location, quantum and timing of residential, commercial and industrial land use within the sub-region.²
12. While the current Operative Waikato District Plan (**ODP**) predates these provisions within the WRPS, Waikato District Council (**WDC**) has been content that the ODP gives effect to these regional policies, and in terms of active plan making and implementation, this regional policy influence has been felt in a number of subsequent plan changes and consenting processes in the district since 2013.³
13. It should also be noted that in 2010 the northern Waikato areas of Pokeno and Tuakau became part of the Waikato District, following an Auckland - Waikato boundary adjustment arising under the Auckland Council amalgamations. The 2009 Future Proof strategy did not extend this far north, and so the ODP provisions relating to these northern areas of the Waikato District, which are inherited from the previous Franklin District Plan, are not well integrated with the current suite of regional policies in the WRPS.

² WRPS: 6D Future Proof Table 6-1, 6-2, and 6-3, 6A Development principles

³ See for example PC 17: Ngaruawahia and Surrounding Villages Stage One proposed rezoning

14. In this way, while it cannot be said that there is a clear misalignment between the WRPS and ODP, there is however a “gap” in the strategic land use planning for these northern areas of Waikato District.
15. Against this background, and in light of a range of other dynamic factors affecting strategic land use planning in the sub-region, in 2017 Future Proof embarked on a review and update to the 2009 strategy.

PART 2: The current strategic land use planning framework

16. The strategic planning framework for the sub-region is currently in a very dynamic state.
17. First and foremost, Future Proof is part way through a review of its *first generation* 2009 strategy. The review has produced an updated strategy in 2017 (**2017 strategy update**) which reflects many of the important changes which have occurred over the past decade, including the changes to the northern Waikato District boundary, the introduction of a National Policy Statement on Urban Development Capacity (**NPS-UDC**), and the updated Waikato Plan.⁴
18. The 2017 strategy update has been broken into two phases. Phase 1, which is completed, involved an update to the settlement pattern which addressed the following matters:⁵
 - a) Inclusion of the Northern Waikato areas of Pokeno and Tuakau;

⁴ The Waikato Plan is also a collaborative planning exercise involving multiple councils which is an overarching strategy for growth within the Waikato which extends beyond simply land use planning. E.g. tourism, infrastructure.

⁵ 2017 Strategy Update: Phase 1, pg 16

- b) A continuation of the existing Future Proof strategy approach to managing and restraining ongoing rural residential subdivision pressures adjacent to major settlements, particularly around Hamilton;
 - c) The timing and scale of future urban growth, particularly in the Northern Waikato;
 - d) The growth cells identified in the strategic agreement (2005) between Hamilton City Council and Waikato District is identified as R2 and HT1;
 - e) An adjustment of the future land use demand and residential allocations arising from the 2013 Census, and the Future Proof monitoring report (2015);
 - f) Consideration of the implications of the future Southern links Project and the Waikato Expressway on urban form and the timing of urban growth.
19. Phase 1 was consulted on under the special consultative procedure of the Local Government Act 2002 and adopted by the Future Proof partners in 2017.
20. Phase 2 of the 2017 strategy update is currently active and covers the following matters:
- a) Addressing the requirements of the NPS-UDC, in particular ensuring that the future development strategy as set out in the NPS-UDC is incorporated into the Future Proof strategy;
 - b) Updating the settlement pattern component of Phase I. This will take account of work completed under the NPS-UDC, such as the Housing

and Business Development Capacity Assessment. Phase 2 will aim to reconfirm the existing settlement pattern and future development opportunities;

- c) Any updates required as a result of the adoption of the Waikato Plan;
 - d) Any updates required as a result of new legislation, policies or strategies.
21. This Phase will be actively pursued in the next 12 months and is expected to be completed in 2020. It will also incorporate the outcomes of the Hamilton-Auckland Corridor Plan, which is a separate work stream within Future Proof. Also incorporated will be the outcomes of the Hamilton-Waikato Metro Spatial Plan which is a key component of the Hamilton-Auckland Corridor Plan.
22. In addition to this work programme, Future Proof is aware that WDC is currently developing its own Waikato District growth strategy (**growth strategy**), which is intended to be a guiding document or blueprint for how, where and when growth occurs in the district over the next 50 years. Future proof has been advised that the growth strategy is likely to be consulted on in early 2020 and adopted by WDC in March/April 2020.
23. The detail of the proposed growth strategy is not yet known, however, it will be important for the growth strategy to achieve broad alignment with the Future Proof strategy update, the Hamilton-Auckland Corridor Plan, and the Hamilton-Waikato Metro Spatial Plan, all of which will which provide an important broader strategic context. For that reason Future Proof anticipates taking an active role in the development of and consultation on the draft growth strategy.
24. Achieving alignment between these strategic planning instruments and the decision making on the WPDP is crucial to the success of this planning

process under the RMA. Clearly, the WPDP is an instrument which should deliver on and implement the Waikato District growth strategy, and for that reason it is important that the growth strategy be settled ahead of final decision making on the WPDP. Equally, it is important that Future Proof's work feeds into these WDC planning initiatives.

25. Returning to Future Proof's strategy update, it is programmed to be completed in 2020, and will then move into the implementation phase. That will include updating the WRPS, however that is not currently programmed. Any amendment to the WRPS is not likely to be publicly notified until late 2020 at the soonest.
26. Future Proof is however conscious of the need to make good progress with its strategy update, so that it can usefully inform and assist with decision making on the WPDP. It will be working towards that end throughout the remainder of 2019 and into the first half of 2020.

PART 3: Future Proof submission to the WPDP

27. Future Proof has lodged a submission in respect of the WPDP. As a member of Future Proof, WDC declared an interest in respect of the submission and abstained from voting in respect of decisions relating to the submission.
28. Clearly the timing and sequencing issues set out in Part 2 of these submissions present some challenges. The Future Proof submission (**Submission**) signals the intention to co-ordinate with WDC in respect of strategic land use decision making, and Future Proof acknowledges that this will require collaboration, and resourcing, from all parties.
29. The Submission is broadly in support of the notified WPDP, but where the proposed provisions engage with these strategic land use and growth

related issues, aligned thinking is the outcome sought. For example, in respect of Chapter 4: Urban Environment, the Submission states:

State the reasons for your views

Future Proof generally supports the strategic direction outlined in section 4.1 as this is consistent with the Future Proof Strategy and the Future Proof Housing and Business Development Capacity Assessment. Future Proof also supports the policies for each of the urban areas in the Waikato District as these are consistent with the direction set for these areas in the Future Proof strategy. The objective on housing options (4.2.16) is also strongly supported as this is consistent with a key Future Proof principle relating to providing housing choices.

There is work currently underway on a Hamilton- Auckland Corridor Plan. The Proposed District Plan may need to be updated to reflect the outcomes of this work. In particular, changes to the policies for the urban environments may be required.

I seek the following decision

Retain the strategic direction outlined in section 4.1 including the policies for the urban areas. Note that these policies may require updating in order to reflect the Hamilton-Auckland Corridor Plan work.

30. While the Future Proof submission makes regular reference to the strategic planning work currently under way, on some issues its position is however already clear. For example, in respect of the notified WPDP provisions seeking to extend the Te Kowhai Village Zone (Section 4.3, Chapter 24, Chapter 27) Future Proof opposes the provisions and states:

State the reasons for your views

Future Proof is of the view that there are two important things that must occur before this area is further developed:

1. Building on the work of the Ngaruawahia and Surrounds Structure Plan and the Te Kowhai Blueprint, a detailed structure plan/infrastructure plan or similar should be prepared for the whole area which looks out over 30 years and considers what

services are required (three waters, transport and community facilities).

2. The area should be properly serviced by infrastructure or a plan put in place for this to happen before the area is zoned.

I seek the following decision

Amend the provisions relating to the growth of Te Kowhai. Future Proof is of the view that additional growth should not occur at Te Kowhai until further detailed structure planning work is undertaken and until servicing is put in place. As part of any future three waters strategic work focus on completing an infrastructure plan that provides for more intensified urban development with reticulated services. This plan needs to be put in place before development is considered. Wider infrastructure and facilities matters should also be incorporated such as transport and community facilities.

31. Accordingly, while the Future Proof submission is broadly in support of the WPDP, it places great importance on the benefits of decision making which is integrated with its own strategic land use thinking. Its local authority members, including WDC, have invested heavily in this work, and it is important that it manifest in the WPDP provisions.

PART 4: Procedural matters


32. Future Proof is interested in the broad strategic planning outcomes delivered under the WPDP. These matters are addressed throughout the plan, and Future Proof will therefore be engaged in a number of hearings.
33. At this stage it is intended that Future Proof will actively participate in the following hearings:
 - a) Hearing No 3: Strategic Objectives – 4 November 2019
 - b) Hearing No 6: Village Zone – 16 December 2019

- c) Hearing No 7: Industrial zone – 20 January 2020
 - d) Hearing No 8: Country Living zone – date TBA
 - e) Hearing No 14: Te Kowhai Airpark – date TBA
 - f) Hearing No 21: Rural zone – date TBA
 - g) Hearing No 23: Infrastructure objectives, policies, rules – date TBA
 - h) Hearing No 25: Zone extents – date TBA
 - i) Hearing No 26: Other matters – date TBA
34. At each hearing Future Proof will present legal submissions, planning evidence and any further expert evidence necessary to support its position.

CONCLUSION

35. Future Proof welcomes the opportunity to actively participate in the development of the WPDP. It intends to work collaboratively with WDC throughout the hearing process to achieve the aspirations of WDC and its Future Proof partners.

Dated 26 September 2019



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