

**BEFORE THE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY
WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on the Proposed Waikato District Plan
(Stage 1)

OPENING PLANNING SUBMISSIONS FOR WAIKATO DISTRICT COUNCIL
23 September 2019



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MAY IT PLEASE THE COMMISSIONERS:

Introduction

1. My name is William Gauntlett and I appear as the Team Leader - Resource Management Policy Planning for the Waikato District Council ("Council"), which is the proponent of the Proposed Waikato District Plan (Stage 1) ("PDP").
2. These opening submissions are prepared in accordance with the "Directions from Hearing Commissioners Regarding Opening Submissions" dated 9 August 2019 ("Directions"). Of relevance to these submissions, the Directions requested that Council provide an overview of the proposed plan, including the process followed in preparing it and an overview of the key issues that the Council anticipates the subsequent hearings will need to address. As such, these submissions are intended to be non-contentious and are factual. I will not be addressing any of the substantive matters raised by submitters.
3. The Directions also request Council to provide the Hearing Panel with and an overview of the legal framework within which its decisions are to be made. This overview will be provided by Ms Bridget Parham, Council's legal counsel, and will follow the presentation of these planning submissions.

Purpose of the District Plan Review

4. In 2010, the southern portion of the former Franklin District was amalgamated with Waikato District. In terms of the planning regime, since that time the management of the wider Waikato District has been an operative district plan with two sections. The Franklin section of the Waikato District Plan became operative in 2000. The Waikato section of the Waikato District Plan became partly operative in 2011 and fully operative in 2013.
5. The look, feel and focus of the two sections of the Operative Waikato District Plan are very different but represented the pressures, the environment and the community at the time each was drafted.
6. The district plan review was motivated by a number of considerations. Section 79(1) RMA requires councils to commence a review of their district plan provisions if they have not been subject to a review or change during the previous 10 years. Many of the Franklin provisions were more than 10 years old and overdue for review. Regardless of whether the council wishes to alter a provision or retain it, the provisions must still be notified as if they were amended.

7. In addition to the statutory requirement to review the district plan provisions, the pressures faced within the district have evolved over time. Growth pressures have manifested that the District Plan needs to respond to. Several plan changes had been undertaken by both Waikato and Franklin Councils to provide for individual areas where those pressures were being felt (both in the north and south of the district), however Council considered that a more comprehensive all-of-district planning approach was needed.
8. Given the amalgamation of the District, it was important that the planning regime was also consistent and aligned across both parts of the District. A single district plan was important to the Council and community so that Waikato District could have “one voice, one plan”.¹

Initiation of the District Plan Review (2014)

9. A report was prepared for the Policy and Regulatory Committee in February 2014 which sought initiation of a review of the two District Plans. Two options were outlined in that report: the first option was to carry on with the Operative Waikato District Plan and the Franklin Section until a decision was made regarding amalgamation and any changes to the RMA. The second option was to begin the process of a total review of the two District Plans. The second option was favoured by Council officers as Council function needed to continue even if there were proposed amalgamations, and this would place Council in a more strategic position with the neighbouring councils by having a sharper policy and issue position. The district plan review was also seen as an opportunity to align with the Significant Natural Areas project, the Regional Policy Statement when it became operative, the Auckland Unitary Plan and the Waikato Spatial Plan.
10. The report to the Policy and Regulatory Committee recognised that due to the new Section 32 evaluation requirements, the review could take more than three years to prepare. The report also recognised all the steps required prior to notification, including internal and external consultation, workshops with elected members, and preparation of technical reports.
11. The resolution arising from the Policy and Regulatory Committee meeting was confirmed by full Council, and in April 2014 Council resolved to begin the review of the Operative District Plan:

THAT a review of the Operative Waikato District Plan (including the Franklin Section) commences with Stage One for future notification;

AND THAT all matters pertaining to the district plan review be presented to the whole council with the option to delegate matters to a subcommittee if desired. (WDC1404/08/1/7)

¹ Report to Policy and Regulatory Committee, 28 February 2014, paragraph 4

12. “Stage One”, as referred to in the report to the Policy and Regulatory Committee, comprised all the processes prior to notification such as auditing the Operative District Plan, identifying provisions to be retained, Councillor workshops, engagement with iwi, and drafting provisions. This terminology was used in a different context to the Proposed District Plan (Stage 1) as it was eventually notified on 18 July 2018.
13. At the outset of the review process the Council adopted the following principles to guide the development of the Proposed Plan. The Proposed Plan should:
 - a. express a clear purpose throughout its provisions;
 - b. be focused on what can most appropriately be done under the RMA;
 - c. recognise that there are alternative methods outside the RMA that may be more effective in achieving desired outcomes, rather than trying to do too much through the Proposed Plan or potentially going beyond the ambit of the RMA;
 - d. be outcome-led i.e. it starts with the identification of objectives and then identifies policies and methods to achieve those objectives; and
 - e. have a simple, clear and logical structure and be easy to use.
14. The statutory purpose of the Proposed Plan is to promote and achieve the sustainable management of natural and physical resources in accordance with Section 5 of the RMA. In advancing that purpose, the Council adopted the following principles that recognises that:
 - a. enabling people’s well-being requires allowing for people’s choices;
 - b. where the Proposed Plan imposes constraints, these have a clear evidential basis;
 - c. where the Proposed Plan imposes a substantial burden on a private land owner, it is because of a compelling public interest; and
 - d. protecting resources, sustaining their potential to meet future needs, safeguarding the life-supporting capacity of the environment and addressing the adverse effects of human activities on the environment are as essential as enabling people’s well-being.
15. The original timeframes intended that the Proposed District Plan be notified in 2017/18.
16. Although the district plan review was initiated as a full review, this eventually became a partial review due to the delay in mapping and background technical assessments to inform the natural hazard and climate change provisions. I discuss this in more detail later in my evidence.

Key Issues to be Addressed by the District Plan Review

17. In addition to the statutory requirements to review district plans, perhaps the most significant outcome of the district plan review was the desire for one set of comprehensive and consistent rules across both parts of the District. In considering issues facing the district, the higher-order planning documents such as the Regional Policy Statement were used as principal documents which guided the preparation of the review (and were indeed given effect to as required by Section 75(3) of the RMA). The issues reflected in the higher-order planning documents were transposed into the local context. Key issues included:
- a. Accommodating and managing growth pressures;
 - b. Protection of landforms and natural areas;
 - c. Protection of productive soils and rural communities;
 - d. Community pressures for housing and liveability;
 - e. Protecting heritage;
 - f. Impacts of housing affordability;
 - g. Hazards and climate change;
 - h. Tangata whenua aspirations;
 - i. Rural fragmentation;
 - j. Protection of significant natural areas;
 - k. Consistency of infrastructure across zones and the District;
 - l. Enabling development of Maaori-owned land;
 - m. Protection of culturally significant Maaori sites;
 - n. Improved urban environment; and
 - o. Better integration between development and infrastructure

Statutory Considerations in Preparation of the Proposed District Plan

18. Ms Parham will be setting out the legislative requirements and planning framework within which a district plan must be developed. I will outline some of the key documents and their importance in framing the PDP. The fundamental purpose of preparing, implementing and administering a district

plan is to assist the Council to carry out its functions in order to achieve the purpose of the RMA (Section 72).

19. The purpose and principles are set out in Part 2 of the RMA, and comprise:
 - a. the purpose of the RMA (Section 5);
 - b. Matters of National Importance (Section 6);
 - c. Other Matters that require particular regard be given to in achieving the purpose of the Act (Section 7); and
 - d. Treaty of Waitangi (Section 8.)
20. The starting point is Council's functions as set out in section 31 of the RMA. The Council's Operative District Plan satisfied the "establishment" under section 31(1)(a), whilst the "implementation" role is delivered through Council's regulatory planning and enforcement channels. The third requirement is to "review" the provisions of the district plan - a task that is further reinforced by section 79(1)(c) of the Act. The PDP assists the Council in meeting both the section 31(1)(a) and 79(1)(c) obligations.
21. Section 75(1) and (2) of the RMA sets out the contents of the district plan and outlines matters which a district plan *must* state, and those which a district plan *may* state. Section 74 RMA sets out the matters that must be considered in preparing or changing a district plan, including the documents that a plan must give effect to (Section 75(3)) and the documents that a plan must not be inconsistent with (Section 75(4)).
22. Both Section 75(5) and Clause 34 of Schedule 1 to the RMA allow for documents to be incorporated by reference in the district plan. The PDP contains a number of documents incorporated by reference, mainly New Zealand Standards, such as standards for development and noise issues. The full list of documents proposed to be incorporated by reference was publicly notified on 17 July 2018, with comments closing on 31 August 2018. No comments were received.

National Policy Statements

23. Section 75(3) of the RMA requires that the District Plan gives effect to any National Policy Statement (NPS) and any New Zealand coastal policy statement. The PDP gives effect to the four NPS documents which are currently in place:
 - a. NPS on Electricity Transmission (2008)
 - b. NPS for Renewable Electricity Generation (2011)
 - c. NPS for Freshwater Management (2014)

- d. NPS on Urban Development Capacity (2016).
24. The New Zealand Coastal Policy Statement has not fully been given effect to by Stage 1 of the PDP; in particular, the management of development in the coastal environment is a matter most appropriately addressed in Stage 2.
25. Several other draft NPSs are being proposed but are not yet operative, and have not been taken into account in the district plan review. This issue is discussed more fully by Ms Parham in her opening legal submission.
26. The Hauraki Gulf Marine Park Act 2000 (section 9) requires territorial authorities to ensure that any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8. These sections, dealing with the national significance and management of the Hauraki Gulf, are given the status of national policy statements. Waikato District includes land within the Hauraki Gulf catchment, as well as a short coastline at Miranda. The PDP complies with the Hauraki Gulf Marine Park Act.

National Environmental Standards

27. Every local authority and consent authority must observe national environmental standards (NES) and must enforce them to the extent that their powers enable them to. Section 44A of the RMA requires district plans to not duplicate a national environmental standard or conflict with it. The following standards are currently in force as regulations:
- a. National Environmental Standards for Air Quality
 - b. National Environmental Standard for Sources of Drinking Water
 - c. National Environmental Standards for Telecommunication Facilities
 - d. National Environmental Standards for Electricity Transmission Activities
 - e. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
 - f. National Environmental Standards for Plantation Forestry.
28. Several other NESs have been considered or proposed by the Government but are not yet gazetted. The PDP is consistent with the operative NESs above, neither duplicating nor conflicting with any of the NES provisions.

National Planning Standards

29. National Planning Standards were approved by the Minister for the Environment and published in April 2019, after notification of the PDP. Some submissions on the proposed plan ask for the

National Planning Standards to be applied to the PDP. This matter is addressed by Ms Parham in her opening legal submission, but is also considered fully in the Section 42A report for Hearing 2.

Waikato Regional Policy Statement

30. Section 75(3) of the RMA requires district plans to give effect to any regional policy statement. The Waikato Regional Policy Statement became operative on 20 May 2016. It states regional objectives and policies, and methods of implementation. The methods statements make numerous references to district plans, requiring district plans to give effect to relevant policies. The Waikato Regional Policy Statement gives effect to the Vision and Strategy (Te Ture Whaimana o Te Awa o Waikato) contained in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The PDP acknowledges the Vision and Strategy (Section 1.7) and complies with the requirements of the Regional Policy Statement and obligations imposed directly under this and other Treaty settlement legislation.

Regional Plans

31. Section 75(4) of the RMA requires district plans to not be inconsistent with a regional plan for matters specified in section 30(1). Waikato Regional Council is currently conducting a regional plan review. Two regional plans are currently operative:
- a. Waikato Regional Plan
 - b. Waikato Regional Coastal Plan.
32. The PDP is not inconsistent with these operative regional plans. The district plan review had regard to the provisions of Proposed Regional Plan Change 1: Healthy Rivers Wai Ora, (notified October 2016), which addresses water issues, including water quality and the vision and strategy for the Waikato River. The PDP indirectly affects water issues, with its development controls. Submissions on Proposed Regional Plan Change 1 are currently being heard. When its final form is known there will be a need to review whether there is any inconsistency in the district plan. This matter will be addressed in more detail by Ms Parham in her opening legal submissions.

Neighbouring Territorial Authorities

33. A Council is required by section 75(2)(c) of the RMA to have regard to the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities. Waikato District adjoins Auckland, Hauraki District, Matamata-Piako District, Waipa District and Hamilton City. Opportunities for alignment of provisions or plan structure were considered. All adjacent territorial authorities were notified as part of the district plan review.

No specific cross-boundary issues were raised. Section 1.5 of the PDP provides a process to address cross-boundary issues emerging in future.

34. Consistency was considered and discussed with neighbouring territorial authorities, and the PDP is considered sufficiently consistent with the operative or proposed district plans of neighbouring territorial authorities. Differences in approach or content do not reflect a conflict with neighbouring authorities, but provide a locally-informed, context-sensitive, Waikato-based planning framework.

Iwi Management Plans

35. Section 74(2A) of the RMA states that a territorial authority must “take into account” any planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.
36. To date there are two iwi planning documents that have been prepared and lodged with the Council. These documents have been considered in the preparation of the PDP.
37. Waikato-Tainui Environmental Plan 2013 (Tai Tumu Tai Pari Tai Ao) is designed to enhance Waikato-Tainui participation in resource and environmental management. The plan seeks to achieve a consistent approach to environmental management across the Waikato-Tainui rohe, providing clear, high-level guidance to external agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment. The PDP was drafted to be consistent with this plan.
38. The Joint Management Agreement (JMA) which Waikato District Council has with Waikato-Tainui via Waikato Raupatu River Trust provides for an enduring relationship between the two parties. Council must take into account the relevant components of the Waikato-Tainui Environmental Plan. As it relates to the Waikato River, Council must respect the independence of the parties and their individual mandates, roles and responsibilities in relation to the Waikato River.
39. The Maniapoto Environmental Management Plan 2016 (Ko Ta Maniapoto Mahere Taiao) is a direction-setting document and describes issues, objectives, policies and actions to protect, restore and enhance the relationship of Maniapoto with the environment, including economic, social, cultural and spiritual relationships.
40. In giving effect to the Vision and Strategy for the Waikato River, including the Waipa River, the PDP has taken into account, and is consistent with, the Maniapoto Environmental Management Plan.

Other Plans and Strategies

41. The RMA also requires a Council preparing a district plan to have regard to any management plans and strategies prepared under other Acts (section 74(2)(b)(i)). The PDP takes into account several Council strategies including:
- a. Waikato District Development Strategy
 - b. Structure plans
 - c. Design guides
 - d. Tree Policy
 - e. Activity Management Policy
 - f. Reserves Management Plans
 - g. Waste Management and Minimisation Plan
 - h. Catchment Management Plans
 - i. Community Plans
 - j. Economic Development Strategy
 - k. Biodiversity Strategy
 - l. Natural Hazard Risk Management.
42. While consultation on these documents did not explicitly link them to the district plan, the Council has considered the community input that shaped them. During the review process, collaboration within Council has ensured that appropriate methods are included for rules or alternative methods to implement the strategies. Care has been taken to ensure that the proposed district plan does not duplicate requirements within a bylaw.
43. The Future Proof Strategy, Planning for Growth, November 2017 is a 30 year growth management and implementation plan specific to the Hamilton, Waipa and Waikato sub-region. Future Proof establishes a settlement pattern to provide for growth and development and aims to achieve a more compact and concentrated urban form over time. Elements of an earlier version of the Future Proof Strategy have been incorporated into the Waikato Regional Policy Statement, and these are given effect to by the PDP.
44. The Hauraki Gulf Marine Spatial Plan (Sea Change – Tai Timu Tai Pari) aims to secure a healthy, productive and sustainable future for the Hauraki Gulf. The proposed district plan has a role in assisting with the implementation of the spatial plan in those parts of the district within the Hauraki Gulf catchment.

45. The strategies given regard to are not limited to Waikato District Council strategies. It should be noted that not all of these strategies were made and prepared under legislation, and thus do not fall within the scope of Section 74(2)(b)(i). Nonetheless, Council also had regard to the following strategies in preparation of the PDP:
- a. NZ Biodiversity Strategy 2000 (Department of Conservation)
 - b. Waikato Conservation Management Strategy 2014–2024 (Department of Conservation)
 - c. Vision and Strategy for the Waikato River (legislation/ Regional Policy Statement)
 - d. The Waikato River and Waipa River Restoration Strategy (Waikato River Authority).

Consultation and Engagement

46. In developing the PDP, a significant amount of engagement and consultation was undertaken. Council engaged with key stakeholders and with local communities as to how the Plan should reflect all the individual as well as community aspirations.
47. Elected members were deeply involved in the development of the PDP, with workshops being held on specific topics between 2015 and 2018. For every topic, the elected members participated in workshops which addressed firstly the policy framework (i.e. the statutory basis for the approach, as well as the draft objectives and policies), and secondly the draft rules.
48. A collaborative partnership approach was taken with other sectors of the community to the drafting of the PDP. Council created an Iwi Reference Group to provide Council with a single forum to socialise the proposed changes to the Operative District Plan. The Iwi Reference group was made up of all iwi and hapuu within the district that council currently consults with on resource consents². Engagement and consultation with the Iwi Reference Group provided input into the development of the draft plan from the inception of the project to December 2018.
49. Many of the wider issues identified in the PDP are also managed and influenced by other organisations through their respective planning documents. A collaborative partnership approach included Future Proof partners (Waikato Regional Council, New Zealand Transport Agency, Hamilton City Council and Waipa District Council), with ongoing and frequent consultation held with adjacent Councils.

² The Iwi Reference Group includes representatives from: Tauhei Marae, Ooraeroa Marae - Ngaati Tahinga, Karewa Te Kotahitanga - Taiporutu Matete, Te Kaharoa Marae (Aramiro), Waimakariri Marae, Te Kaharoa Marae (Aramiro), Taupiri Marae, Waipa-Ranui Trust, Te Kotahitanga - Taiporutu Matete, Te Whakakitenga o Waikato Incorporated Te Kotuku Whenua, Waahi Whaanui Trust, Moana Raahui o Aotea - Ngaati Te Weehi, Tainui o Tainui Environmental Management Committee, Hauraki Collective, Ngaati Paoa Iwi Trust, Hauraki Maaori Trust Board, Ngaati Haua Iwi Trust, Ngaati Tamaoho, Ngaati Te Ata, Ngaa tai e Rua Marae, Te Awamarahi Marae, Huakina Development Trust, Ngaati Tahinga, Tawhia Te Ao Papakainga Trust, Mai Uenuku ki te Whenua Marae, Nga Uri o Tamainupo ki Whaingaroa Trust, Tihirahi Marae/Hema Te Ao Estate, Weraroa Marae, Te Puni Kokiri

50. While all feedback and consultation processes produced valuable information, Council held open days to actively involve the community. Twenty two open days were held within the District in varying locations between 2 June 2015 and 19 January 2016. Council then made a draft PDP available for public feedback in November 2016. In association with draft PDP, Council held open days and drop-in days which enabled the community to talk to the planners and examine the draft PDP. A series of open days and workshops on the Draft PDP was held between 17 October and 7 December 2017. Each of these consultation processes had increasing levels of detail of the provisions, reflecting the evolution and development of the PDP.
51. Specific consultation commenced with affected landowners on biodiversity, landscapes, natural character and historic heritage in May and June 2018, with letters sent to property owners who would be directly affected by provisions on these matters. Discussions were held with landowners regarding the draft provisions and what they would mean for them.
52. In the development of the draft PDP, a number of working groups were formed on particular issues and one of the more successful partnerships and processes was with the infrastructure providers. Development of the Infrastructure and Energy provisions was informed by two stakeholder groups - infrastructure providers and surveyors, and an internal Council group of planners and engineers. Workshops were held with both groups to initially identify issues with the Operative Waikato District Plan, then subsequent workshops to look at the draft provisions in more detail and provide feedback.
53. Council was acutely aware of its obligations under Clause 3 of Schedule 1 to the RMA, which sets out the requirements for local authorities to consult with Tangata whenua through iwi authorities. Clause 3 also requires Local Authorities to consult with any person, group or ministry that may be affected by changes made to the district plan.
54. Council used the following methods to create an Iwi Reference Group:
- a. Joint Management Agreement
 - b. Tai Tumu Tai Pari Tai Ao (Waikato Tainui Environmental Plan)
 - c. Partnerships
 - d. Collaboration.
55. There were a number of matters raised through this forum, including:
- a. General inability to utilise Maaori land
 - b. Need for whanau housing
 - c. The ongoing destruction of Maaori sites

- d. Identification of Maaori sites
 - e. Protection and celebration of Maaori sites.
- 56. Council was also aware of the obligations of Clause 4A of Schedule I of the RMA, which requires local authorities to consult with iwi authorities before notifying a proposed plan. Clause 4A(1)(b) requires Council to have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.
- 57. Council engaged with the relevant Iwi and Hapuu and through Te Kahui Mangai website.
- 58. Iwi authorities within Waikato District:
 - a. Waikato Tainui
 - b. Ngaati Tamaoho.
- 59. Iwi, for the purposes of RMA listed on Te Kahui Mangai was Tainui o Tainui.
- 60. Iwi from other districts with relationships with Waikato include:
 - a. Hauraki
 - b. Ngaati Maniapoto
 - c. Ngaati Paoa – Hauraki.
- 61. Section 32(4A)(a) requires Council to include in the Evaluation Report a summary of all the advice received from iwi authorities on the District Plan Review. Section 32(4A)(b) requires Council to include in the Evaluation Report a summary of how Council has responded to the advice received from iwi authorities on the District Plan Review, including any provisions included in the proposed plan that are intended to give effect to their advice. This section should also document how the advice has been used in the s32 evaluation process. This information is appended to the report “Introduction to the Evaluation Reports” (July 2018), and sets out not only the advice provided by iwi authorities, but also how the draft PDP was amended to respond to those issues.

Designations

- 62. Under Clause 4 of Schedule I to the RMA, requiring authorities with existing designations in the Operative District plan are invited to give notice to Council that their designations are to be:
 - a. Rolled over into the PDP without modification;
 - b. Rolled over into the PDP with modification; or
 - c. Withdrawn.

63. There are 29 new designations. All notices received from the requiring authorities under Clause 4 of Schedule I to the RMA were included in the PDP. All landowners and occupiers directly affected by any notice were notified separately.

Two Stages

64. While the District Plan Review process started off as a full review under Section 79(4) of the RMA, this was subsequently amended by way of Council resolution to a rolling review under Section 79(1). A full review would have enabled every section (or chapter) of the PDP to be reviewed and this was the initial intent, however as the review progressed, there were significant delays in receiving the flood mapping data and other technical information associated with natural hazards. These delays were beyond the control of Council, its officers and experts.
65. As noted by Ms Parham in her opening legal submissions, by August 2017 it became clear that the natural hazard and climate change topics would not be completed in time for notification of the remaining sections of the PDP. Council did not wish to delay notification of the PDP as there was no certainty as to when the further technical information would be available.
66. On 12 March 2018, the Council resolved as follows:

THAT the Strategy & Finance Committee recommends to Council that the following resolution (WDC 1404/08/1/7) be revoked:

“THAT a review of the Operative Waikato District Plan (including the Franklin Section) commences with Stage One for future notification;

AND THAT all matters pertaining to the district plan review be presented to the whole Council with the option to delegate matters to a subcommittee if desired.”

AND FURTHER THAT the Strategy & Finance Committee recommends to Council that, pursuant to section 79(1) of the Resource Management Act 1991, a rolling review of the Operative Waikato District Plan be commenced forthwith;

AND FURTHER THAT the topic concerning climate change and natural hazards be reviewed and notified separate from the rest of the district plan topics once critical updated technical data is available.

67. The outcome of this resolution was to effectively separate the PDP into two stages, where Stage 1 was a review of all provisions except natural hazards and climate change which is known as Stage 2.

68. While Council has resolved to undertake a partial review (because it could not notify all chapters at the same time), the process followed by Council is more akin to the process followed in a full review. Thus, the PDP looks like a complete district plan, but with placeholder chapters for the natural hazards and climate change provisions. However, as Ms Parham will reflect in her legal submissions, despite the 2018 Resolution confirming that Council was undertaking a partial review, the public notice for Stage 1 of the PDP under clause 5 of Schedule 1, referred to it being a “full review of the current Operative Waikato District Plan”.
69. Stage 2 will contain objectives, policies and rules relating to the management of natural hazards, including:
- a. Flooding;
 - b. Coastal erosion and inundation;
 - c. Huntly mine subsidence;
 - d. Liquefaction; and
 - e. Climate change.
70. Many technical assessments have underpinned the development of the draft provisions for Stage 2 and the draft provisions are now at a stage where it would be useful to socialise them with the community and obtain feedback. At the Council meeting on 9 September 2019 the Council resolved to consult on the draft provisions for Stage 2:

THAT the report from the General Manager Community Growth be received;

AND THAT the Council authorises the General Manager Community Growth to make further amendments to the draft Proposed District Plan – Stage 2 Natural Hazards document (circulated under separate cover as part of the Public Excluded Agenda) to:

a. reflect any changes required by the Council; and

b. make minor changes to ensure the document is clear and consistent;

AND FURTHER THAT the Council approves that the draft Proposed District Plan – Stage 2 Natural Hazards be made available for community feedback, subject to the amendments noted above;

AND FURTHER THAT the Council notes public consultation and feedback will occur between 30 September 2019 and 28 October 2019, and note that 30 September is also the first day of the hearings for Stage 1 of the Proposed District Plan.

71. The feedback received on the Stage 2 draft will help further refine the provisions in preparation for notification under Schedule 1 of the Resource Management Act ("RMA"). It is anticipated that RMA notification can occur in early 2020.
72. There is a risk that the Stage 2 provisions may affect the effective consideration of submissions to Stage 1. This is a particular risk for submissions on matters such as rezoning requests. To overcome this risk, the timing of the Stage 2 process will result in the Stage 2 hearings immediately following the completion of the hearings on Stage 1. This will enable the same Hearings Panel to hear submissions and further submissions on both Stages and make one integrated and holistic decision. Stage 2 will contain an element of variation to the Stage 1 provisions, so coordinating Stages 1 and 2 to enable a single decision is important.

Key Differences Between the Content of the Operative and Proposed District Plans Structure

73. There are some significant differences between the Operative District Plan (the Franklin Section and the Waikato Section) - and the PDP. The structure and arrangement of the three documents are quite different, although the objectives and policies are separate from the rules in all three. One of the key drivers for the PDP was a consistent and coherent planning framework for the whole District, but this approach has resulted in changes for both the Franklin and Waikato sections of the Operative District Plan. Although I have outlined some of the key points of difference below, this list is by no means exhaustive and really only represents some of the more significant differences.
74. Both the Waikato and Franklin sections of the Operative District Plan contain issues and reasons and anticipated environmental results, however Council received a lot of feedback on the draft PDP that sought to remove unnecessary information and make the Plan shorter. Section 75 of the RMA outlines what a district plan *must* state and what it *may* state, and the decision was made to focus the PDP on the mandatory requirements.

Infrastructure

75. The infrastructure provisions have been given their own chapter rather than being repeated in each zone. This arose from workshops with the infrastructure providers. The main users of the infrastructure provisions are the infrastructure providers themselves, and it was more efficient to have a single infrastructure chapter, versus having infrastructure provisions inserted into each zone chapter. Fundamental to consideration of the structure of the district plan with regard to

infrastructure provisions is the principle of a district plan being intuitive, with things being where users of the plan intuitively expect them to be. Users of the Plan must have some confidence that they have found all the relevant provisions.

Zone framework

76. The PDP is largely consistent with the zone framework of the Operative District Plan: Waikato Section. However, the PDP does contain some new zones, including Business Town Centre, Hampton Downs Motor Sport and Recreation Zone, Te Kowhai Airpark Zone and Rangitahi Peninsula Zone. Other zones, such as Te Kauwhata Lakeside, that were in the Operative District Plan: Waikato Section but do not feature as a zone in the PDP, have been incorporated as an overlay on top of a zone and are contained at the end of the relevant zone chapter. For example, the rules for Nau Mai Business Park are contained at the back of Chapter 20 Industrial Zone. This section contains rules for the Nau Mai Business park that depart from the standard Industrial Zone rules. The Franklin Section of the Operative District Plan had a considerable number of zones and these have been substantially reduced. Many of these were specific to a site or particular activity, such as the Timber Processing Zone, Queen's Redoubt Heritage Zone and Aggregate Extraction and Processing Zone. These zones have been able to be rationalised into a more streamlined zone structure, whilst still recognising and enabling the activities that occur in these areas through activity rules or overlays.
77. The Village Zone is new for the Waikato Section, although the subdivision rules are different from those that were in the Franklin Section. The Village Zone in Tuakau and Te Kowhai has two different lot sizes, depending on whether the sites are connected to public water and wastewater infrastructure. Unserved sites have a minimum lot size of 3,000m², but this can be reduced to 1,000m² if the sites are connected to public water and wastewater infrastructure.
78. All commercial activities were managed in the Franklin Section by a single Business Zone, apart from the two industrial zones which were introduced into Pokeno by way of Plan Change 24 to the former Franklin District Plan. The Waikato section had a single industrial zone, whereas the PDP manages industrial activities through two zones – Industrial Zone and Industrial Zone Heavy. Between both sections of the Operative District Plan there were nine industrial zones (including spot zones), and this has been rationalised to just two.
79. The approach to commercial activities is more refined, with three zones focusing on retail – the Business Zone, Business Town Centre Zone and Business Zone Tamahere.

Natural Environment

80. The PDP has a stronger approach to the protection of Significant Natural Areas. These have been mapped in the district plan maps and there are a suite of objectives, policies and rules which protect those mapped areas. The concept of biodiversity offsetting is new, and is delivered largely through policies.
81. The PDP has a more refined hierarchy for landscapes and natural character than either sections of the Operative District Plan. The highest-quality tier is outstanding natural landscapes and outstanding natural features. The next tier is significant amenity landscapes and natural character areas. These areas are all identified on the planning maps, and there are objectives, policies and rules to manage those areas.

Development in the Rural Environment

82. There is stronger recognition of the value of high class soils, particularly through objectives and policies, but this is also manifested through tight controls on subdivision in the Rural Zone to avoid fragmentation.
83. Rural hamlet subdivision is a new concept to the PDP which results in a cluster of between three and five lots, balanced with a larger rural lot of 20 hectares.
84. The Operative District Plan: Franklin Section contained transferable development rights which enabled a right to transfer the subdivision potential from one property to another property in the same district. This was particularly relevant to the Rural Zone, however the concept of transferable development rights has not been carried over into the PDP.

Managing Growth

85. The PDP responds to and manages growth through giving effect to the National Planning Statement on Urban Development Capacity, with several new areas zoned for urban growth, including Pokeno, Tuakau and Te Kowhai.
86. The Franklin section of the Operative District Plan had more relaxed lot sizes for residential development and the lot size could be reduced smaller than the minimum lot size if the subdivision and land use consents were concurrent. This approach has not been carried over into the PDP and the minimum lot size for the Residential Zone is 450m² for general subdivision or 300m² for multi-unit development. The PDP does enable a wider range of living options and housing typologies though, with the introduction of minor dwellings as a permitted activity, multi-unit developments and retirement villages in the Residential Zone. Other zones also enable

residential development such as the Business Town Centre Zone to encourage more mixed use developments.

87. The Urban Expansion Area around the edges of Hamilton City is also more tightly controlled, with subdivision of this area being classed as a prohibited activity in the PDP.
88. Both sections of the Operative District Plan contained structure plans for various areas, such as Pokeno, Tuakau, Te Kauwhata and Rangitahi. The approach to structure plans and comprehensive development plans has changed from what was in the Operative District Plan.

Tangata Whenua

89. Neither section of the Operative District Plan obviously addressed Tangata Whenua issues, however the PDP has a stand-alone Tangata Whenua chapter (Chapter 2). This chapter recognises the importance of mataauranga Maaori in the management of natural and physical resources. The introduction of a Tangata Whenua section is to provide background and better understanding of Maaori issues. It is a new approach that is further supported by objectives, policies, rules and methods more specific to Maaori aspirations. This approach will enable an improved presence of Tangata Whenua throughout the plan, and the relevant objectives, policies, rules and methods to be given more consideration.
90. Management of the development of Maaori owned land in the Operative District Plan: Waikato Section was primarily through the Paa Zone, although the Franklin Section was more enabling and contained rules for Marae complex and papakaainga in each zone. Because of the challenges for Maaori to develop their land and the importance of providing for their people, the PDP manages Marae Complex or Papakaainga Housing Development on Maaori Freehold Land or on Maaori Customary Land as permitted activities in the zones where they are located. As the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a Section 6 matter in the RMA, there are also more enabling rules for Maaori Freehold Land or Maaori Customary Land relating to indigenous vegetation clearance (both inside and outside a Significant Natural Area).

Default Rules

91. The Operative District Plan: Waikato Section stated a general presumption that every activity is permitted, unless the activity is regulated or prohibited by the plan. This means that an activity, or effect of an activity, that is not mentioned in the Plan is permitted. The PDP takes the other view, and classifies every activity not listed as a prohibited, permitted, restricted discretionary or discretionary activity to be a non-complying activity.

Structure of the PDP

92. The Franklin and the Waikato sections of the Waikato Operative District Plan are structured quite differently and the PDP is more aligned with the Waikato section in its structure. The PDP has five main parts to it:
- a. Section A: Overview and Strategic Objectives (Chapter 1 Introduction)
 - b. Section B: Objectives and policies (Chapters 2-11)
 - c. Section C: Rules (Chapters 12-28)
 - d. Section D: Appendices and Schedules (Chapters 29-30)
 - e. Section E: Designations
 - f. Planning maps.
93. Section 75(1) of the RMA outlines that a district plan must state:
- (a) the objectives for the district; and*
 - (b) the policies to implement the objectives; and*
 - (c) the rules (if any) to implement the policies.*
94. Section 75(2) outlines those aspects that a district plan may state, such as the significant resource management issues for the district and the reasons for adopting the policies and methods. In order to keep the PDP streamlined and focused, the PDP does not contain any of the matters that a district plan *may* include.
95. In terms of the broad structure of the PDP, the objectives and policies were separated from the rules so that they could apply more generally. For example, Chapter 4 contains objectives and policies which apply to all the “urban zones” such as Residential, Business, Industrial and Village Zones.
96. Chapters 1 and 2 perform more of an introductory / scene-setting function, although both of these chapters contain higher-level objectives and policies.
97. Chapters 3-10 contain objectives and policies, but no rules. Some of these chapters are specific to a zone (such as Chapter 9 Specific Zones, which relates to Te Kowhai Airpark Zone, Hampton Downs Motor Sport Park Zone, Rangitahi Peninsula and Business Zone Tamahere), whilst others apply to several zones (such as Chapter 4 Urban Environment which applies to multiple zones, including Residential Zone and Business Zones). Chapters 3-10 establish the objectives and

policies for matters which apply across the zones, such as Chapter 3 Natural Environment and Chapter 7 Historic Heritage.

98. Chapters 11 and 15 are empty placeholder chapters to allow Stage 2 of the PDP regarding natural hazards and climate change to be slotted into the PDP structure. Chapter 11 will contain the objectives and policies, while Chapter 15 will contain the rules.
99. Chapter 12 describes how to use the PDP, and explains features such as the activity status and how to apply for a resource consent.
100. Chapter 13 contains the definitions, and these apply throughout the PDP.
101. While Chapter 6 contains the objectives and policies associated with infrastructure and energy, Chapter 14 contains the rules. This is a key difference from the Operative District Plan (particularly the Waikato section), where the infrastructure rules were scattered throughout the zones. The provisions in these two chapters are mostly focused on infrastructure providers, however there are some rules which will apply to landowners, such as the connections to reticulated water systems, impervious surface rules and building requirements associated with the National Grid Yard.
102. Chapters 16-28 contain all the rules relating to zones. Each of these chapters has five parts to it:
 - a. Introduction (for some zones only). This section describes the zone and where it applies.
 - b. Land Use – Activities Rules. This is usually a table which sets out different land use activities and the activity status. Where an activity is permitted, it will quite often require compliance with the Land Use – Effects Rules and Land Use – Buildings Rules in order to be an activity. For example, a residential activity is permitted in the Residential Zone, but must comply with the noise standards in Rule 16.2.1.1 and the maximum height of buildings in Rule 16.3.3.1 (among others) in order to be a permitted activity.
 - c. Land Use – Effects Rules. These rules relate to an activity rather than a building or structure. The rules regarding amenity are contained in this section of each chapter, for example noise, glare and lighting. The earthworks rules are contained in this section of each chapter, and also notable trees and Maaori sites and areas of significance.
 - d. Land Use – Building Rules. This section of each chapter is specific to buildings and structures and contains the parameters within which a building may be constructed. The

rules include aspects such as maximum height, daylight admission, building coverage, building setbacks etc.

- e. Subdivision Rules – this section contains the activity status for subdivision and the associated standards, such as minimum lot size. There are quite often different standards for subdivision in specific areas, for example in the Residential Zone there are different standards for general subdivision in the Te Kauwhata Ecological Residential Area, Te Kauwhata West Residential Area and multi-unit development.

- 103. There are a number of zones that were in the Operative District Plan: Waikato Section but do not feature as a zone in the PDP as they have been incorporated as an overlay on top of a zone. The rules that apply to these specific areas are contained at the end of the relevant zone chapter. For example, the rules for Lakeside Te Kauwhata Precinct are contained at the back of Chapter 16 Residential Zone. This section contains rules for the Lakeside development that depart from the standard Residential Zone rules. Where there is no rule in Chapter 16.5 Lakeside Te Kauwhata Precinct, the normal Residential Zone rule in Chapter 16.1-16.4 will apply.
- 104. Chapters 26-28 do not apply across the District and are limited in their geographic relevance. They are essentially spot zones which apply to a particular part of the District. The Motor Sport and Recreation Zone applies to Hampton Downs, which is located beside State Highway 1 south of Meremere. This was not previously in the Operative District Plan: Franklin Section and is a new zone intended to reflect the special nature of the Hampton Downs racetrack and associated development. The development of this area has been managed through a multitude of resource consent applications. The Te Kowhai Airpark Zone applies to the land on and around the runway at Te Kowhai, north-west of Hamilton. This is a new zone that covers the runway and surrounding land for both airside and residential activities. Rangitahi Peninsula was originally introduced into the Operative District Plan: Waikato Section as a private plan change. Given the sensitive nature of the Rangitahi Peninsula and the strong reliance on a particular design and layout, the operative provisions did not lend themselves to one of the more general residential zones.
- 105. The objectives and policies for these three zones are contained in Chapter 9 Special Zones. Whilst Chapters 26-28 contain the rules specific to these zones, they are not in isolation of the broader objectives and policies, such as Chapter 3 Natural Environment, Chapter 6 Infrastructure, Chapter 10 Hazardous Substances and Contaminated Land etc.

106. There are twelve Appendices which address matters such as design guides, character statements and requirements for acoustic insulation.
107. Five Schedules under Chapter 30 are largely specific to historic heritage (in the widest sense) and relate to historic heritage items, notable trees, Maaori sites and areas of significance and urban allotment significant natural areas. These schedules contain not only the addresses of each feature, but often information as to what makes the site or building special. These are all identified on the PDP maps.
108. The spatial area of each zone is shown on the planning maps. As well as zones, there are various policy areas (such as Environmental Protection Area which applies only to Te Kauwhata), sites/features (such as historic heritage buildings) and designations marked on the planning maps. Policy Areas, sites and features have specific rules which apply to them.
109. Every part of the district (except for roads) is in a zone, and the zones do not overlap. Roads appear white on the planning maps and are not zoned. Rules relating to activities occurring in the road corridor are set out Chapter 14: Infrastructure and Energy.
110. Lakes and rivers appear with a blue shading on the maps to assist users with orientation. Although the rivers and lakes are not given a zone shading, they are in a zone. All waterbodies are zoned Rural, except for Lake Hakanoa and Lake Puketirini, both of which are zoned Reserve, and have reserve management plans applying to them. The district plan regulates activities on the surface of rivers, lakes and other waterbodies.
111. While some rules are specific to each zone such as the minimum lot size for subdivision, there are other rules which are intended to be common to every zone. This situation applies mostly where sites are subject to a schedule, such as a historic building or Maaori site of significance, where the underlying zone is somewhat irrelevant to the management of that building / area / feature.
112. A number of rules have been coloured green in the PDP and this is for easy identification of rules with immediate effect. As the Panel will be aware, a rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified (RMA Section 86B.) Exceptions are rules that deal with particular subjects. Immediate legal effect from the notification date is given to any rule that:
- (a) protects or relates to water, air, or soil (for soil conservation); or
 - (b) protects areas of significant indigenous vegetation; or
 - (c) protects areas of significant habitats of indigenous fauna; or
 - (d) protects historic heritage; or

(e) provides for or relates to aquaculture activities.

- I 13. Council had options to vary this approach. It could seek earlier legal effect from the Environment Court for other rules, or resolve that rules only have legal effect once the proposed Plan has been made operative. Council did not exercise either of these options in relation to the proposed district plan.
- I 14. This means that rules relating to indigenous vegetation and habitats, contaminated sites, and historic heritage have had legal effect since the date of notification of the proposed district plan. The PDP highlights in green the rules having immediate legal effect under section 86B(3).
- I 15. In the Operative District Plan: Waikato Section, there was a Paa Zone which applied to Maaori, but this no longer exists in the PDP. Legacy district plans have not fully understood or supported the land tenure of Maaori land ownership and the concept of whakapapa or kaitiakitanga and the application of these concepts to land in terms of a Maaori view. Tangata whenua have aspirations to develop their whenua and future needs, but this is often a slow process, due to the requirements of the Māori Land Court governance issues, financial assistance, ownership agreements and in terms of the RMA, district plan rules that are required to be met. The approach of the PDP is not to have a specific Maaori zone, but instead to create enabling rules and a policy framework across many of the general zones to enable Marae Complex or Papakainga Housing Development on Maaori Freehold Land or on Maaori Customary Land.

Section 32 Evaluation

- I 16. In the development of the PDP and prior to notification, Council was acutely aware of the obligations of Section 32 of the RMA. Council engaged Market Economics to develop a report template and undertake the economic assessment required by Section 32(2). Market Economics worked closely with Council's Geographic Information Systems team to develop a social and economic profile for Waikato District, which formed the basis for evaluating the effect of various provisions.
- I 17. Section 32(1)(c) of the RMA requires that the evaluation report of the proposal contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated as a result of the implementation of the proposal. For this reason, while a Section 32 evaluation was undertaken for every area of the PDP, only the areas or topics that were likely to have a significant effect on the District were subject to an analysis by

Market Economics. This was a judgement call by Council, and the focus was on areas of the PDP which departed the most significantly from the policy position in the Operative District Plans. The Market Economic analysis fulfilled Section 32(2), with an evaluation of the effects, costs and benefits, including quantification of those benefits and costs. This evaluation was undertaken for each community within Waikato and by economic sector.

118. The Section 32 evaluation reports were robust and included an evaluation of 'blue sky' options that were considered in the development of provisions, an assessment of the objectives against the purpose of the RMA, and evaluation of the specific provisions as the most appropriate way to achieve the objectives. Even though Section 32 does not expressly require it, each report contains an assessment of the provisions against the higher-order documents, such as the Regional Policy Statement and any relevant National Policy Statements.
119. The Section 32 evaluation reports also catalogue all of the consultation processes, feedback and responses for each part of the PDP.
120. Section 32 evaluations were completed for the following subjects. Those marked with an asterisk included an evaluation by Market Economics, while the other Section 32 evaluations were informed primarily by a planning assessment:
 - a. Strategic direction and management of growth*
 - b. Infrastructure
 - c. National Grid*
 - d. Renewable electricity generation
 - e. Water supply, stormwater and wastewater
 - f. Transport
 - g. Biodiversity*
 - h. Landscape and natural character*
 - i. Historic heritage*
 - j. Tangata whenua*
 - k. Residential Zone*
 - l. Village Zone
 - m. Rural Zone*

- n. Business and Business Town Centre Zone
- o. Industrial Zones
- p. Hazardous substances
- q. Contaminated land
- r. Reserve Zone
- s. Business Zone Tamahere
- t. Hampton Downs Motor Sport and Recreation Zone
- u. Te Kowhai Airpark Zone

121. In order to keep each of the Section 32 evaluations focused on the main topic, an overarching Section 32 report was written³, which catalogues the statutory framework within which the PDP (and the Section 32 evaluations) was prepared. It also outlines the broader consultation processes and the community feedback from these.

Adoption of the Proposed District Plan

122. Council adopted the Proposed District Plan on 27 June 2018 and approved Stage 1 of the PDP for notification (resolution WDC1806/07).

THAT Council approves the Proposed Waikato District Plan (Phase one) – including the associated Planning Maps – for notification on 18 July 2019 pursuant to Sections 73 and 79 of the Resource Management Act 1991 (“RMA”) and Clause 5 of Part 1 of the Schedule 1 of the RMA;

AND THAT any amendments to correct any minor errors, including numbering, grammar, cross referencing, hyperlinking and mapping, may be undertaken prior to notification on 18 July 2018, subject to:

(a) The changes being minor corrections that do not change the effect and/or meaning of any provisions; and

(b) A record of all changes and the reason for the change is kept and is to be made available on request;

AND FURTHER THAT the Section 32 Evaluation reports also be made available to the public at the same time that the Proposed Waikato District Plan (Phase One) is notified;

³ Section 32 Report – Introduction to the Evaluation Reports, July 2018

AND FURTHER THAT Council confirms that, in accordance with Clause 4A of Part I of Schedule I of the RMA, a full copy of the draft proposed district plan has been provided to the following identified iwi authorities (as the representatives of their respective hapuu) within the district for consideration of the draft provisions and to provide advice on the draft provisions:

- *Waikato-Tainui*
- *Ngati Tamaoho*
- *Ngato Maniapoto*
- *Tainui Awhiro and*
- *Hauraki Collective;*

AND FURTHER THAT Council has had particular regard to the advice received on the draft proposed district plan from those iwi authorities before notifying the draft plan;

AND FURTHER THAT the submission period be open for 60 working days from the date of notification;

AND FURTHER THAT the formal Council seal be applied to the Proposed Waikato District Plan (Phase One) and be signed by His Worship the Mayor and the Chief Executive once is approved by Council and prior to notification;

AND FURTHER THAT Council notes that Phase Two of the Proposed Waikato District Plan – climate change and natural hazards provisions – will be notified in early 2019.

123. The Proposed District Plan, including all provisions and maps, was notified on 18 July 2018, with a closing date for submissions on 9 October 2018. Because of the significance and size of the PDP, Council resolved to allow 60 working days for submissions, which is more than the minimum 40 working days after public notification specified in Clause 5(3) of Schedule I of the RMA. This was designed to enable sufficient opportunity for the community to become involved in the PDP process.

Insertion of Minimum Housing Targets

124. The National Policy Statement on Urban Development Capacity 2016 (NPS-UDC) came into effect on 1 December 2016. Waikato District Council is considered as part of a High Growth Urban Area jointly with Hamilton City Council and Waipa District Council. The NPS-UDC directed Council to incorporate minimum targets for sufficient, feasible development capacity for

housing into the district plan by 31 December 2018. This change was required to be made without using the process in Schedule 1 of the RMA.

125. Council resolved on 10 December 2018 as follows:

THAT the recommended mandatory changes to the Operative Waikato District Plan (Waikato and Franklin Sections) and the Proposed District Plan are approved;

AND THAT these changes take place prior to 21 December 2018 with public notice issued within 5 working days of implementation. [WDC1812/09]

126. In accordance with Section 55(2A)(b) of the RMA, the Waikato District Plan (including the PDP) was updated prior to 21st December 2018 to meet this mandatory requirement. Accordingly the following objective was inserted into the PDP on 11 December 2018:

4.1.1 Objective – Strategic

(b) National Policy Statement on Urban Development Capacity Minimum Targets.

The minimum targets for sufficient, feasible development capacity for housing in the Waikato District area are met, in accordance with the requirements of the National Policy Statement on Urban Development Capacity 2016.

Area	Minimum Targets (number of dwellings)		
	Short to Medium 1-10 years (2017-2026)	Long term 11-30 years (2027-2046)	Total
Waikato District	7,100	12,300	19,400

127. In accordance with Section 55(2A)(b), the change was publicly notified within five days of the amendment being made. The new objective replaced the Objective 4.1.1(b) that was notified in the PDP, as the notified version contained different numbers of dwellings that were to be provided within the period 2018-2045. Because the NPS-UDC objective was inserted after submissions closed, no submissions have been received on the specific numbers contained in that objective. However submissions were received on the notified version of Objective 4.1.1(b) and these are addressed in Hearing 3.

Consultation Following Notification

128. Following public notification of the PDP, Council held a number of open days around the district to ensure that the community could easily access information on what the PDP meant for their property and their community. Open days were held between 20 August 2018 and 25 September 2018 in the following locations:
- a. Mangatangi Hall
 - b. Ngaruawahia Hall
 - c. Huntly library
 - d. Tamahere Community Centre
 - e. Raglan Town Hall
 - f. Te Kauwhata Rugby Club
 - g. Pokeno Town Hall
 - h. Te Kowhai Town Hall
 - i. Tuakau Town Hall
129. Council also contracted Neil Taylor as an independent planner who could assist people to craft their submissions, and to perform the role of 'friend of the submitter'. This meant that the submissions were clear, and people could effectively express their views of the PDP.
130. During this time, over 400 public enquiries were received by Council.

Summarising submissions

131. In order to fulfil Clause 7(1) of Schedule 1 to the RMA, Council summarised the decisions requested by persons making submissions on a proposed policy statement or plan. There were two main focuses of the summarising process:
- a. A summary of the decision requested; and
 - b. The reasons for the decision requested.
132. To ensure consistency with summarising submissions, Council developed guidelines for summarising submissions. Although this could not be applied to all submissions, the guidelines adopted an approach of starting each summary of the decision requested with the following terms:
- a. Retain
 - b. Add

c. Amend

d. Delete

- I 33. Where submitters sought specific amendments to text, the additions were shown as underlined, and deletions were shown as struckthrough. Where large sections of text were sought to be added (such as an entirely new chapter to the Plan), the summary of decisions requested summarised the addition and referred readers to the primary submission, rather than copying the entire text.
- I 34. Where a submission sought changes to multiple zones, these were summarised as separate submission points in order to reflect the requested amendments to each of the zones to which it pertained.
- I 35. Where a submission had multiple parts to it that were interrelated and could not be separated without losing the intent of the submission, these were reflected as a single submission point with “AND” or “OR”.
- I 36. Due to the constraints of the submission management system used by Council, where a submission supported the majority of the submission but wished to amend one clause, this was reflected by the following approach:

Retain Rule x, except for the amendments sought below

AND

Amend Rule x.1 as follows:

- I 37. This approach was necessary to reflect that the submitter wished to retain most of the provision, whilst wishing to amend one section of it. If the summary had focused on the amendment, there was a risk that the support of the balance of the provision would have been overlooked.
- I 38. Many of the points by lay submitters stated “support” for a provision or “opposition” to a provision. The requirement of Clause 7 of Schedule 1 to the RMA focuses on the “summary of the decision requested”. In scenarios like these, there was no decision requested by the submission. The team summarising the submissions therefore assumed that if a submitter supported a submission, then this amounted to seeking to retain the provision. However, those submissions that opposed a provision could not be converted to the standard approach so easily, and it would have been inaccurate to assume that the submitters wished to ‘delete’ or ‘amend’ the provision. Therefore, submissions that opposed a provision were summarised as:

No specific decision sought, but submission opposed Rule x

139. Where a submission sought unspecified consequential amendments, for completeness this was reflected in each of the submission points for that submission.
140. 989 submissions were received, which amounted to 9,766 individual submission points. Of these, twenty five submissions were received after 9 October 2018 (and were therefore late submissions) and were the subject of a 'late submissions' report to the Hearings Panel on 14 June 2019.
141. The key themes emerging from the submissions include:
- a. Requests for rezoning (over 30% of the submissions sought rezoning)
 - b. Requests for new bespoke zones e.g. Kimihia Lakes, Mercer Airfield, Hopuhopu, Ta Ta Valley
 - c. Request for a town centre overlay / special planning regime for Raglan
 - d. Support for the development of Te Kowhai Airfield
 - e. Requests for an increase in the number of residential zones e.g. inclusion of a medium density residential zone
 - f. Challenging whether the Proposed District Plan gives effect to the National Policy Statement for Urban Development Capacity
 - g. Reduction in the qualifying size for rural subdivision
 - h. Opposition to the prohibited rural subdivision rules
 - i. Reduction of the minimum lot size for Country Living Zone
 - j. Increasing the size of Significant Natural Areas through additional subdivision opportunities
 - k. Reducing or removing Significant Natural Areas from properties
 - l. Support for the tangata whenua chapter and the approach to development of Maaori freehold land
 - m. Inclusion of a policy and rule framework to manage Genetically Modified Organisms
 - n. Requests to delay the Proposed District Plan to allow Stage 2 Natural Hazards to catch up

- o. Requests to implement the National Planning Standards
 - p. Increasing the range of activities in different zones
 - q. Challenging the definition and standards for intensive farming
 - r. Increasing the size and height of existing infrastructure structures
 - s. Increasing volume and area of earthworks as a permitted activity
 - t. Changes to the development standards for buildings, in particular the daylight admission angles.
- I42. Council developed its own submission to address some of the errors and omissions. The development of Council's submission was informed by feedback from a number of sources, including internal Council teams, enquiries from the public, as well as key stakeholders such as Waikato Regional Council, Hamilton City Council, iwi and the New Zealand Transport Agency. Matters raised in these conversations contributed to Council's submission. The key matters in the proposed Council submission include:
- a. Inconsistencies with rule structures across chapters;
 - b. Unclear rules;
 - c. Rules that are difficult to measure and enforce;
 - d. Omissions in certain activity rules in some zones;
 - e. Revised activity status for some activities;
 - f. Incorrect volumes or thresholds;
 - g. Defined terms requiring clarity;
 - h. Interpretation or intent of rules unclear;
 - i. Strengthening or further clarification of some Objectives and Policies;
 - j. Duplication of rules; and
 - k. Planning map issues.
- I43. Council approved the submission to the PDP at the Council meeting on 8 October 2018 (Resolution S&F1809/13).

Further submissions

144. Even though the summary of submissions was ready to notify for further submissions in March 2019, Council decided to delay notification, as the Blueprints exercise was being undertaken, and there would have been a high risk of the community confusing the two processes. This also allowed time for additional checking of the summary of submissions.
145. Council publicly notified a summary of decisions requested, in accordance with Clause 7 of Schedule 1 to the RMA on 29 April 2019. The period for lodging further submissions was initially scheduled to close on 27 May 2019.
146. On 15 August 2019 Council publicly notified a correction to the original summary of submissions. This was not a re-notification of the summary of submissions. The additional notification included:
- a. Minor corrections to the summaries of 29 submissions;
 - b. The original submission documents to 39 submissions that were not available due to technical issues; and
 - c. Added five submissions that had been omitted from the first summary of decisions.
147. The submissions that were omitted from the first notification of the summary of submissions were:
- a. Mark Fendall [122]
 - b. KiwiRail [986]
 - c. Koch Farms Limited [985]
 - d. Turangawaewae Trust Board [984]
 - e. Waikato-Tainui [286].
148. Some of these omissions were due to submitters submitting two documents that were in addition to their initial submission, rather than replacements (and an incorrect assumption was made that they were replacement submissions). The submission from Turangawaewae Trust Board had not been received by Council, and Council only became aware of this after the summary of decisions requested had been notified.
149. For fairness, the further submission period matched that of the initial notification period for further submissions (20 working days), therefore the closing date for all further submissions was 9am on 16 July 2019.

150. Further submissions were received from 423 individuals and organisations, resulting in 13,908 further submission points.
151. Of the further submissions received, fifteen further submissions were received after 9am on the 16 July 2019. Thirteen of the late further submissions were received on the day that the further submission period closed, and two were received within two days of the closing of further submissions. These further submissions were the subject of a report to the Hearings Panel on 9 September 2019.

Appointment of the Hearings Panel

152. Given the importance of the PDP in guiding the development of the District for at least the next ten years, it was important to appoint an independent and experienced Hearings Panel. While the Hearings Panel will be aware of this part of my submission, the purpose of this section is more for completeness of outlining the process for submitters.
153. In accordance with section 34A(1) of the RMA, the Council appointed a seven-member Hearings Panel to hear the proposed district plan submissions. The Hearings Panel comprises two independent commissioners, two iwi commissioners and three councillor commissioners. On 10 September 2018 Council appointed Councillors Jan Sedgwick, Janet Gibb and Dynes Fulton as independent commissioners to the Hearings Panel for the Proposed Waikato District Plan (WDC1809/14.) Council noted that additional external commissioners would be appointed later.
154. Council resolved to appoint external commissioners on 10 December 2018 (WDC 1812/08):

THAT two external independent commissioners be appointed to the pool to make up the Hearings Panel of the Proposed Waikato District Plan, Stages 1 and 2;

AND THAT subject to staff discussions with iwi, Dr Phil Mitchell be appointed as Chair and Mr Paul Cooney be appointed as Deputy Chair of the Hearings Panel of the Proposed Waikato District Plan, Stages 1 and 2;

AND FURTHER THAT following engagement with tangata whenua, at least one further independent commissioner with an understanding of tikanga Maaori and of the perspectives of local iwi or hapuu, be appointed, at a later date by Council, to the pool to make-up the Hearings Panel of the Proposed Waikato District Plan, Stages 1 and 2;

AND FURTHER THAT Council delegates to the Chair of the Hearings Panel the power to determine the composition of the Hearings Panel for specific topics and/or individual hearings of submissions on the Proposed Waikato District Plan, Stages 1 and 2;

AND FURTHER THAT Council delegates to the Hearings Panel all powers, duties and functions under the Resource Management Act 1991 to consider, hear, deliberate and decide on all submissions and further submissions received on the Proposed Waikato District Plan Stages 1 and 2;

AND FURTHER THAT Council adopts the Terms of Reference for the Proposed Waikato District Plan Hearings Panel as set out in Attachment 1 to the agenda.

155. Additional external commissioners were appointed by Council on 8 April 2019 (WDC1904/07 and /08): Linda Te Aho as lead independent commissioner, bringing an understanding of tikanga Maaori and of the perspectives of local iwi and hapuu and Weo Maag as a supporting independent commissioner, also bringing an understanding of tikanga Maaori and of the perspectives of local iwi and hapuu.

Hearings

156. There are many ways to organise the hearings, but the most important factor is that every submitter be given the opportunity to be heard. The initial approach to hearings was to organise them by topic e.g. all the noise rules for all the zones would be heard together, all of the earthworks rules for all of the zones would be heard together etc., but this approach led to an enormous number of hearings. Whilst it undoubtedly would have encouraged alignment of provisions across the zones and would have made each Section 42A report shorter, it did not encourage consideration of each zone as a package of provisions. It also would have led to submitters needing to prepare evidence and present to the Hearings Panel a significant number of times – even if they were only interested in one particular zone.
157. The format that was decided upon was that each zone would be a stand-alone hearing, with topics (which are largely Section 6 matters) each having their own hearing. This is intended to encourage alignment across the zones for Section 6 matters, and enable each zone to be considered comprehensively as a package by the Hearings Panel. Some objectives and policies apply equally to a number of zones (such as those in Chapter 4 which apply to urban zones), and these have been allocated to Hearing 3 Strategic Objectives as they perform a higher level strategic role in the PDP.
158. Thus, the hearings are organised as follows:
- a. Hearing 1 - Chapter 1 Introduction
 - b. Hearing 2 - All of Plan matters and Plan structure

- c. Hearing 3 - Strategic Objectives
- d. Hearing 4 - Tangata Whenua, Whaanga Coast and Maaori Freehold Land
- e. Hearing 5 - Definitions
- f. Hearing 6 - Village Zone
- g. Hearing 7 - Industrial and Industrial Heavy Zones
- h. Hearing 8 - Hazardous substances, contaminated land and genetically modified organisms
- i. Hearing 9 - Business and Business Town Centre Zones
- j. Hearing 10 - Residential Zone
- k. Hearing 11 - Lakeside Te Kauwhata
- l. Hearing 12 - Country Living Zone
- m. Hearing 13 - Hampton Downs Motor Sport Zone
- n. Hearing 14 - Te Kowhai Airpark Zone
- o. Hearing 15 - Rangitahi Peninsula
- p. Hearing 16 - Reserves Zone
- q. Hearing 17 - Raglan (character and request for a structure plan)
- r. Hearing 18 – Historic Heritage
- s. Hearing 19 - Ohinewai (rezoning and development)
- t. Hearing 20 - Maaori Areas and Sites of Significance
- u. Hearing 21 - Rural Zone
- v. Hearing 22 - Natural Environment (including significant natural areas, landscapes and natural character areas)
- w. Hearing 23 - Infrastructure objectives, policies and rules
- x. Hearing 24 – Designations
- y. Hearing 25 - Zone extents (includes all the rezoning requests and NPS-UDC analysis)

- z. Hearing 26 - Other matters (will include any integration matters that need to be resolved, topics that do not fit into any of the other hearings, and non-district plan matters).
159. Each submission point was considered as to the most appropriate hearing and allocated accordingly. Because of the way the submissions were summarised (particularly those that have two points which were interrelated as an “and” or an “or”), these needed to be allocated to two hearings. For example, if the submissions sought changes to the rule for daylight admission in the Residential Zone and amendments to the definition of daylight admission in Chapter 13 Definitions, this submission point would be allocated to two hearings.
160. While some submission points were easily allocated to a particular hearing, some could arguably have been addressed in a number of hearings. The important consideration was that each submission point was allocated to a hearing.
161. Hearing 25 relating to zone extents has been placed towards the end of the hearing process to ensure that the Stage 2 provisions will have already been notified, and submissions and further submissions on Stage 2 received. Of all the provisions in the PDP, the zoning requests have the most potential to be affected by the natural hazards and climate change provisions. It is important that the background technical information that will support Stage 2 be available to the submitters, the Section 42A report author and the Hearings Panel when the matter of the extent of zonings is considered.
162. I recognise the importance of integration between the various chapters, and this is the main purpose of Hearing 26 - to enable those integration matters to be resolved and for a consistent approach across the Plan.

Section 42A hearing reports

163. Section 42A of the RMA relates to preparation of a report on information provided on any matter described in section 39(1) by the applicant or any person who made a submission. Section 42A(1AA) outlines who may prepare such a report:

The local authority may—

- (a) require an officer of the local authority to prepare the report; or*
- (b) commission a consultant or any other person employed for the purpose to prepare the report.*

164. The purpose of the Section 42A reports in the context of the PDP is to evaluate each of the primary and further submission points and make a recommendation. Each of the hearings will have at least one Section 42A report, which will be written by a suitably-qualified and experienced planner and makes a recommendation on each primary submission point and further submission point relevant to the topic. While these are written by a planner, the Section 42A reports will often have technical evaluations appended to them, upon which the planner has relied. As the Panel are aware, the opinions expressed in the Section 42A reports are those of the author, and may not necessarily be those of Council or elected members. This is entirely appropriate, as all authors are required to confirm that they have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, and that they have complied with it when preparing their report. The role of the Section 42A report author is that of an independent expert. Other than when they state that they are relying on the advice of another person, the evidence must be within the author's area of expertise. Material facts known to the author cannot be omitted that might alter or detract from the opinions that are expressed in the report.
165. The authors of each Section 42A report must declare all perceived or real conflicts of interest.
166. In order to keep each Section 42A focused and free of unnecessary clutter, an introductory Section 42A report⁴ has been written which contains background material on the district plan review process to date, to inform the Hearings Panel, submitters and interested people of the steps taken over several years to reach the hearings stage. It contains no analysis or recommendations on any individual submissions or further submissions.
167. Some of the hearings have a very large number of submissions, and to ensure that the Section 42A reports are thorough and focused, there may be more than one Section 42A report for the hearing. The hearing for the Rural Zone is one such example where there are likely to be three Section 42A reports covering the following areas:
- a. Part A: Objectives and policies and activities
 - b. Part B: Land use effects and buildings
 - c. Part C: Subdivision

Together all three reports will comprehensively cover the Rural Zone provisions.

168. Section 32AA of the RMA requires that a further evaluation in accordance with Section 32(1) to (4) be carried out for any changes that have been made to, or are proposed for, the proposal

⁴ Section 42a Report on submissions and further submissions, Part A: Background and Process

since the evaluation report for the proposal was completed. It is good planning practice for any recommended amendments in the Section 42A reports to be subject to the rigour of a Section 32AA evaluation to help inform the Hearings Panel. Accordingly, each Section 42A report contains an evaluation of any recommended changes in accordance with Section 32, but at a level of detail that corresponds to the scale and significance of the changes recommended.

A handwritten signature in black ink, consisting of a large, stylized 'W' followed by a series of loops and a horizontal line extending to the right.

W. Gauntlett

23 October 2019