

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

**AND**

**IN THE MATTER** of **PROPOSED PLAN CHANGE 1** to the Waikato Regional Plan – hearing of **BLOCK 1** topics

**AND**

**IN THE MATTER** of the hearing of submissions and the further submission by **WATERCARE SERVICES LIMITED** in relation to **BLOCK 1** topics

## **LEGAL SUBMISSIONS OF COUNSEL FOR WATERCARE SERVICES LIMITED**

### **1. INTRODUCTION**

1.1 This is the hearing of Block 1 submissions and further submissions on the following matters contained in Proposed Waikato Regional Plan Change 1 (Waikato and Waipa River Catchments (“PC1”)):

- (a) Part A – Introduction and context of the plan change;
- (b) Part B – Outcomes:
  - (i) B1 – Overall direction and whole plan submissions;
  - (ii) B2 – Values and uses;
  - (iii) B3 – Science and economics;
  - (iv) B4 – Objectives; and
- (c) B5 – Freshwater management units, targets and limits, and priorities.

#### **Watercare Services Limited**

1.2 As indicated in the evidence of Mr Bourne, Watercare Services Limited (“Watercare”) is a council-controlled organisation (“CCO”) of the Auckland Council. Watercare is responsible for providing essential water and wastewater services to existing and future communities in Auckland and also townships in the northern part of Waikato District.

1.3 Mr Bourne’s evidence also lists Watercare’s significant assets and interests in the Waikato Region including:

- (a) A bulk supply agreement with the Waikato District Council ("WDC") for the provision of water and wastewater services to Pokeno and Tuakau. Following a recently concluded agreement between Watercare and WDC, it has been announced that Watercare will deliver all operational services related to WDC's drinking water, wastewater and stormwater services from 1 July 2019.
- (b) The Pukekohe WWTP which receives and treats wastewater from Pukekohe, Patumahoe, Buckland, Pokeno and Tuakau. Watercare's Asset Management Plan 2016-2036 ("AMP") includes:
  - (i) \$143M for upgrading the existing WWTP to an Enhanced MBR + UV treatment process; and
  - (ii) \$59M for a new wastewater pipeline from Pukekohe Township to the WWTP.
- (c) The Waikato Water Treatment Plant and associated consent to take up to 175,000m<sup>3</sup>/day of water take from the Waikato River at Tuakau. Watercare has applied to take a further 200,000 m<sup>3</sup>/day.
- (d) Two large water supply dams at the head waters of the Mangatawhiri and Mangatangi rivers which supply the Ardmore Water Treatment Plant.

1.4 The Pukekohe WWTP-related projects obviously represent a major capital investment for Watercare; likewise, the WTP and dams are significant and fundamentally important assets. Given this level of investment, and to provide certainty for future investment and growth in both Auckland and North Waikato, it is important for Watercare to have long term certainty about its ability to remain compliant with existing consents and to obtain future consents for the discharge of wastewater treated to a high standard. This drives the company's particular interest in PC1.

#### **Watercare position on PC1**

1.5 Watercare is supportive of PC1 insofar as it seeks to:

- (a) Reduce the amount of contaminants entering the Waikato River from the Waikato and Waipā catchments;
- (b) Has been developed to achieve the Vision and Strategy ("V & S"); and
- (c) Give effect to the National Policy Statement for Freshwater Management 2014 ("NPS-FM").

1.6 However, Watercare's position is that there are several aspects of PC1 that do not represent the most appropriate means of achieving the purpose of the Resource Management Act 1991 ("RMA") or give effect to the NPS FM, the National Policy Statement on Urban Development Capacity ("NPS UDC") and Waikato Regional Policy Statement ("RPS"). Watercare's key concerns are neatly summarised in Mr Bourne's evidence as follows<sup>1</sup>:

*"Our key concerns can be summarised as follows:*

- (a) *It is not necessary to include values in PC1 as the only requirement in the NPS Freshwater is for the values to be identified for the purpose of enabling objectives to be formulated relevant to those*

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<sup>1</sup> M Bourne evidence, paragraph 1.8.

values. The values identified in PC1 lack clarity and may result in confusion or unnecessary information requirements. The values should therefore be deleted and, if not deleted, amended to recognise the importance of both existing and future municipal water supply and wastewater infrastructure and associated discharges.

- (b) *PC1 does not make adequate provision in its objectives for existing municipal water and wastewater infrastructure and future water and wastewater infrastructure to support growth. To that extent, PC1 does not adequately give effect to the NPS Development and the equivalent provisions of the Waikato RPS.*
- (c) *Amendments are therefore required to the objectives to ensure that PC1 recognises the importance of existing and future regionally significant water supply and wastewater infrastructure and associated discharges.*
- (d) *The objectives of PC1 do not adequately recognise the assimilative capacity of the Waikato and Waipa Rivers and the importance of that with respect to dilution of discharges from wastewater treatment plants. A new objective is required in that regard.*
- (e) *There are number of shortcomings with the water quality targets, including:*
  - (i) *The short and long term water quality targets / limits for ammonia are unrealistically low at numerous locations – lower than required by Attribute State A in the NPS Freshwater and lower than required by the ANZECC (2000) Guidelines. Even a best available technology treatment plant would not achieve the target / limit after reasonable mixing.*
  - (ii) *The long term water quality targets included in PC1 do not reflect a gradual deterioration of water quality down the rivers arising from cumulative effects of discharges. Instead they would result in a stepped decrease in water quality with significant steps between some areas.*
  - (iii) *There is nothing in the short term or long term water quality targets / limits recognising variation between summer and winter seasons.”*

- 1.7 Watercare’s position is that PC 1 needs to be amended to address these concerns and to assist with the overall workability of PPC 1, to remove ambiguities and avoid disputes over interpretation, and to improve clarity. The proposed amendments are addressed in Mr Scafton’s evidence.

### **Alignment with WARTA councils**

- 1.8 Watercare is not a “Waikato council” *per se* although it has the close association with WDC outlined earlier. Nevertheless, Watercare appreciates the need for alignment with Waikato councils in the Waipa and Waikato catchments, particularly in relation to operational issues and the workability of policy / plan provisions. Watercare has therefore engaged

with WARTA councils in working up its case and there is a large measure of alignment in relation to operational issues relevant to point source discharges, concerns about the workability of PC1 and the somewhat literal interpretation WRC has adopted of the (clearly aspirational) V & S.

- 1.9 There are a couple of areas in which Mr. Scafton for Watercare and Ms O'Callahan for WARTA recommend a slightly different position or approach, as might be expected with independent professionals, but that does not detract from the high degree of alignment achieved.
- 1.10 Watercare takes no position on the provisions of PC1 relating to diffuse discharges other than support for the proposition that the V & S and the overall goal of improving water quality, which of course reduces the cost of treatment.

#### **Watercare Block 1 evidence - overview**

- 1.11 Watercare has filed six statements of evidence from three witnesses in this block of hearings as follows.

#### Mark Bourne - Head of Servicing and Consents, Watercare - primary evidence

- 1.12 Mark Bourne oversees the infrastructure servicing strategy and consenting processes for all of Watercare's projects and operations, ensuring compliance with Watercare's resource consents and Watercare's engagement in policy formation.

- 1.13 His evidence:

- (a) Provides an overview of Watercare, including its responsibilities with regard to water supply and the collection, treatment and discharge of treated wastewater;
- (b) Describes Watercare's interests, responsibilities and assets in the Waikato Region (as just outlined); and
- (c) Outline Watercare's support for the Vision and Strategy and the company's position on PC1.

#### Garett Hall - water quality scientist (Beca) - primary and rebuttal evidence

- 1.14 Mr Hall is a Technical Director - Environments at Beca. He has filed primary and rebuttal evidence relating to water quality issues raised by PC1. His primary evidence was comprehensive and focussed on the assimilative capacity of the Waikato and Waipā Rivers and the water quality targets in Table 3.11-1.
- 1.15 Mr Hall has taken careful note of the expert evidence presented in relation to water quality and has prepared a comprehensive statement of rebuttal evidence that addresses matters raised, and recommended modifications to Table 3.11-1 and other related water quality issues, including the current state of water quality in the catchments; future plan effectiveness monitoring; issues relevant to dissolved oxygen, MCI and other water quality parameters; issues in relation to Table 3.11-1; nutrient limitation; and the need for proportionality of improvement in water quality.
- 1.16 For completeness, it is noted that Mr Hall will be participating in the expert conferencing in relation to Table 3.11-1.

Chris Scafton – planning consultant (Beca) – primary, rebuttal and supplementary evidence

- 1.17 Mr Scafton is a Technical Director – Planning at Beca. He has filed primary and rebuttal evidence relating to planning issues raised by PC1. His primary statement addressed:
- (a) The role of values in a regional plan and the reasons why he considers the values should be deleted;
  - (b) Short and long-term water quality targets / limits;
  - (c) The need to better provide for future planned growth;
  - (d) Concerns about the failure to recognise and provide for the assimilative capacity of water bodies and a zone of reasonable mixing;
  - (e) Freshwater objectives in particular Objectives 1, 3, 4 and 6;
  - (f) Beneficial reuse; and
  - (g) Nutrient accounting.
- 1.18 Like Mr Hall, Mr Scafton has taken a close interest in the other experts in his area of expertise. He has also prepared:
- (a) A comprehensive statement of rebuttal evidence that addresses the role of values in a regional plan; management of point source discharges; technical errors in the water quality targets / limits of PC1 by reference to Mr Hall’s evidence; the correct way to interpret the Vision and Strategy; medium term attribute targets; and the objectives of PC1; and
  - (b) A supplementary statement addressing issues that the Panel has been directing towards the planning experts. Leave was sought to file this evidence late by memorandum dated 26 April 2016.

**Key issues of determination - scope of legal submissions**

- 1.19 In light of a few weeks of hearings, the key issues for determination in the context of the Block 1 hearings has become quite clear - the “battle lines” are now much more clearly drawn. Aside from having no specific interest in the provisions relating to diffuse discharges, Watercare’s case is supportive of that presented on behalf of the WARTA councils but is now somewhat more refined, as the rebuttal evidence of Messrs Hall and Scafton demonstrates. These submissions do, however, refer to key aspects of the WARTA case.
- 1.20 In light of that brief background, these submissions address the following issues:
- (a) The Vision and Strategy for the Waikato River - the correct approach to interpretation for the purpose of drafting PC1 provisions and related issues (Section 2);
  - (b) The approach adopted in PC1 to the management of point source discharges, including:
    - (i) The issue of proportionality;

- (ii) The need to recognise and provide for assimilative capacity and reasonable mixing (Section 3);
- (c) The need to make appropriate provision for growth (Section 4);
- (d) The inclusion of the "values" in PC1 (Section 5);
- (e) Water quality and water quality targets (Section 6);
- (f) Proposed amendments to PC1 (Section 7); and
- (g) Watercare's principal submission (Section 8).

## 2. THE VISION AND STRATEGY - THE CORRECT APPROACH TO INTERPRETATION AND RELATED ISSUES

- 2.1 We first address issues relating to the V & S and how it should be interpreted because this influences the extent to which aspirational goals over an 80 year time frame can appropriately be "given effect to."

### **No internal hierarchy**

- 2.2 The Panel's minute dated 19 February 2019 stated:

*"PC1 is required to "give effect" to the Vision and Strategy. The Vision and Strategy contains, amongst other things, the vision, together with a number of objectives and strategies. The Panel foresees that submitters may argue that different elements of the Vision and Strategy suggest different responses. For example, the provisions focussing on restoration and protection of the health and wellbeing of the Waikato River might be seen by some submitters to conflict with sustaining prosperous communities and protecting of the economic relationships some communities have with the River.*

*Given the legal obligation to give effect to it, does the Council consider that some elements of the Vision and Strategy take precedence? If so, what is the basis for that view, and which elements are prioritised. If the Council considers there is no internal priority, how does the Council suggest the Panel resolve areas of perceived conflict?*

*Second, Objective k of the Vision and Strategy focuses on water quality being such that it is safe for people to swim in the Waikato River over its entire length. A number of submitters suggest that the achievement of that objective needs to take into account river conditions, e.g. excluding consideration of times when the river is in flood and unsuitable for swimming on that account. How does Council interpret that objective in this regard?"*

- 2.3 The example given in the first paragraph was somewhat prescient insofar as it foreshadowed the precise issues that need to be addressed in considering the appropriate balance between achieving the cultural and physical environmental objectives of the V & S while ensuring that social and economic objectives are not overlooked or downplayed.
- 2.4 In responding to the minute, Counsel for the WRC in opening legal submissions cited statements from cases which have referred to the Deed of Settlement, the Settlement Act, and the Vision and Strategy, including

the *Puke Coal*<sup>2</sup> decision. Mr Milne then went on to submit that there is a “clear and paramount theme in the Vision and Strategy” – the “protection and restoration of the Waikato River.” In support of that submission he also cited clause (a) from the Strategy and ultimately submitted that:

*“... it cannot credibly be suggested that economic considerations have priority under the Vision and Strategy.”*

2.5 With all respect, it is submitted that:

- (a) This response somewhat misses the point in terms of relative priorities elements within the V & S; and
- (b) If, or to the extent that, this comment implies that the aspirational cultural and spiritual goals of the V & S are to be accorded greater weight than economic considerations, it is incorrect.

2.6 In addressing this issue at the hearing of the WARTA case, we highlighted that the vision:

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

(Emphasis ours).

2.7 It was argued for WARTA that, in assessing the merits of the PC1, it is of fundamental importance to bear in mind that the Vision envisions a healthy Waikato River that “sustains abundant life and prosperous communities,” with those prosperous communities having the ongoing responsibility for restoring and protecting the river, noting that one of the objectives to be pursued in realising the Vision (Clause 3 of Schedule 2) states:

*“(d) the restoration and protection of the relationships of the Waikato Region’s communities with the Waikato River, including their economic, social, cultural, and spiritual relationships.”*

2.8 We went on to say:

*“2.7 ... these aspects of the Vision underpin the importance of ensuring that the outcome of the PC1 process strikes an appropriate balance between environmental and social outcomes – it would represent a classic Catch 22 if the restoration of the river was achieved at the cost of compromising the economic welfare of the Waikato communities through which the river flows. That would be “robbing Peter to pay Paul”.*

*2.8 This is no exaggeration; the threat is real – that is why the WARTA member councils are here as a group today. Consider the sheer cost of upgrading WWTPs to meet the standards imposed by PC1...*

*2.9 All of the WARTA members support in the Vision and Strategy but are very clear that due consideration of these real world consequences is needed to temper the zeal with which the WRC*

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<sup>2</sup> *Puke Coal Ltd v Waikato Regional Council* [2014] NZEnvC 223.

*seems to want to implement the Vision and Strategy."*

- 2.9 Watercare endorses and adopts that submission.
- 2.10 Turning to the question raised by the Panel's minute, it is further submitted that there is no basis for assuming or arguing that any aspects of the V & S take precedence over the others – in other words, if the river sustains abundant life at the expense of the economic (and therefore social and cultural) wellbeing of those communities, then there would have been, ipso facto, a failure to deliver on the vision.
- 2.11 WARTA and Watercare accept that there will inevitably be significant costs associated with achieving the Vision and are not in any way arguing that economic considerations have priority over protecting and restoring the Waikato River. However, economic considerations are clearly highly relevant, both in terms of the Vision itself and in achieving the purpose of the RMA, for the reasons already outlined. Those economic considerations are required to be factored into your decision making. In that regard, Watercare adopts the following paragraph from the WARTA submissions (to the extent that it relates to the cost of the upgrades that would be needed rather the economic consequences of the manner in which PC1 deals with diffuse discharges):

*"2.15 ... The real issue then becomes a matter of determining what needs to be done and when to ensure that communities remain sufficiently prosperous to achieve the protection and restoration of the Waikato River, keeping in mind that we are facing approximately an 80 year time frame to achieve the vision."*

**Is it appropriate to adopt a literal interpretation of the V & S?**

- 2.12 The issues raised in the Minute tend to also raise a more fundamental issue which was discussed at the hearing of the WARTA case. The question posed by Commissioner Robinson was:

*"...whether the V & S is the kind of document that should be subjected to forensic analysis or whether it should be considered more holistically?"*

- 2.13 We submitted that the latter definitely applies and that the V & S needs to be viewed "in the round", meaning holistically, and with a significant degree of flexibility and common sense realism, especially in the early stages of the 80 year period contemplated by the V & S.
- 2.14 Per the conversation we had with the Panel on 18 March 2019, it is important in considering this issue to recall the genesis of the V & S. The V & S was developed as part and parcel of the documents by which the Waikato-Tainui Raupatu Claim in relation to the Waikato River was settled. Negotiations had proceeded between the Crown and Waikato-Tainui for many years and culminated in a settlement by which co-governance of the River was established, a \$50 million fund for the Waikato Raupatu River trust established, and a statutory board was established.
- 2.15 It is clear from reviewing Hansard extracts of the debates during the passage of the Bill and the Waikato-Tainui Raupatu Claims Settlement Act 2010 ("Settlement Act") itself that the Act was intended to set up a complex set of relationships and systems with the long term aim of achieving the restoration of the health and well-being of the river – a much, much bigger picture than the V & S.



- 2.16 In order not to duplicate existing processes, the Settlement Act integrated the settlement within existing regulatory frameworks by providing legislative recognition for the V & S and providing for it as a regional policy statement. But that does not change the fact that the V & S was developed for a broader set of purposes and not primarily (or even secondarily) as an RPS.
- 2.17 It is plain on its face that the language is aspirational and, as such, was not intended to be interpreted literally and precisely applied. It is of fundamental importance that this is recognised when seeking to translate those concepts into PC1. For example, the objectives are specifically stated to be objectives to be "pursued" - not achieved - to "realise the vision". As such, it is clear that they do not override the Vision - the words are words of aspiration and must be interpreted as such. In that context, the objectives include recognition of the importance of economic relationships, which is relevant to the Waikato River sustaining prosperous communities - which in turn reflects what can be seen as the socio-economic aspect or anthropocentric aspect of the Vision.
- 2.18 Mr Scrafton addresses this issue in his supplementary evidence (filed on 24 April 2019). His key message is as follows:

"5.6 *Through Objective 1, PC1 provides for a time frame of 80 years to achieve this Vision. In my opinion, this timeframe does not lend itself well to a literal interpretation of the Vision and Strategy for the Waikato River. In my view, requiring the objectives (e.g. the River is safe to swim in over its entire length) of the Vision and Strategy to be achieved in the lifespan of PC1 is not intended by the Vision and Strategy and would subsequently be an inappropriate interpretation of the Vision and Strategy. I address my reasons for that conclusion below.*

5.7 *Section 79 of the RMA requires a local authority to review a provision of a regional plan if the provision has not been a subject of a proposed policy statement or plan, a review, or a change by the local authority during the previous 10 years. In other words, the nominal lifespan for a provision of a regional plan if that provision is not reviewed is 10 years. In that regard, I do not consider it appropriate to promulgate plan provisions that could either:*

(a) *Be interpreted as including provisions that require the actual achievement of an aspirational long-term vision within the lifespan of those provisions; or*

(b) *Set objectives that are intended to be achieved over a longer term than the likely lifespan of the objectives without providing clear guidance as to what the expectations are on any resource consent applicant within the lifespan of those provisions.*

5.8 *I consider that PC1 as currently drafted raises concerns regarding both (a) and (b) above.*

5.9 *Having regard to the above, I do not consider that it would be appropriate to adopt a literal interpretation of the Vision and Strategy for the Waikato River when giving effect to it through the development of PC1. In my view, any interpretation*

of the Vision and Strategy for the Waikato River has to recognise it was intended to be aspirational and that it will take commitment and time to restore and protect the health and wellbeing of the Waikato River.

(Emphasis ours.)

- 2.19 The “golden rule” of statutory interpretation is essentially to the effect that words should be given their ordinary meaning unless that would lead to some absurdity or inconsistency with the rest of the instrument. The WARTA case threw up some examples of absurd results that would follow if the V & S is interpreted so literally as to result in the imposition of controls and requirements that will either bankrupt communities or result in non-compliance by WWTP operators.
- 2.20 Perhaps the most straightforward example of an overly literal interpretation of the V & S that would lead to absurd results is Mr Milne’s assertion that providing for a zone of reasonable mixing (where a treatment plant discharges directly to a water body) is not in the V & S and therefore should not be recognised or provided for in PC1.
- 2.21 Such a position would result in an absurdity insofar as:
- (a) Such an approach is directly contrary to longstanding and conventional engineering wisdom and regulatory practice, not to mention WRC’s own normal approach; and
  - (b) As noted during the WARTA case, failure to allow for reasonable mixing would “break the bank” of the WARTA member councils who would either bear the extraordinary WWTP upgrade costs or remain non-compliant and face the processes related to this as a more cost effective management solution for the community.
- 2.22 It is also worth noting that sections 70 (regional rules about discharges) and 107 (restrictions on the grant of certain resource consents) of the RMA both specifically stipulate that the adverse outcomes proscribed by those sections (e.g., scums and foams, conspicuous change in colour and clarity) are to be assessed “after reasonable mixing”. The proscribed outcomes are far worse in terms of effects than the degraded water quality that PC1 is seeking to address and yet Parliament saw fit to enable reasonable mixing to occur before assessing the effect.
- 2.23 In that regard, no provision in the Settlement Act overrides the requirement for PC1 to achieve the purpose of the RMA. This was recognised in the Environment Court’s decision on Variation 6:<sup>3</sup>

*“[440] The Settlement Act and the Vision and Strategy do not extend the functions and powers of the Regional Council under the Resource Management Act. Ms Forret mounted an argument based on the words restoration and protection in Objective C in the Vision and Strategy. Objective C does not extend the Council’s functions and powers as set out in Section 30 of the Resource Management Act. The Settlement Act legislation would require clear and unambiguous words to override the principal Act which creates the functions and powers of decision-makers.”*

(Emphasis ours.)

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<sup>3</sup> *Carter Holt Harvey Ltd & Ors v Waikato Regional Council* [2011] NZEnvC 380.

- 2.24 In light of that ruling and the clear words of section 70, it is submitted that a rule that sought to eliminate zones of reasonable mixing in the Waikato and Waipa catchments may well be of doubtful legal validity.
- 2.25 That is also Mr Scrafton's view as a planner as set out in his supplementary evidence:

*"5.17 In relation to the related issue of whether mixing zones can be provided for in PC1, sections 69 (rules relating to water quality), 70 (rules about discharges) and 107 (restrictions on discharge permits) all provide for "reasonable mixing" before the effect in question needs to be assessed – in my view, a literal interpretation that overrides these clear statutory directives is inappropriate and demonstrates that the WRC's interpretation of the Visions reaches beyond what was contemplated."*

### **Submission**

- 2.26 PC1 was formulated as the first step in what will eventually become a programme of steps to achieve the Vision by 2096 -and short term and long term water quality targets have been set in Table 3.11-1.
- 2.27 While the Vision is undoubtedly directed towards protecting and restoring the Waikato River, the Vision specifically envisages that those objectives will be achieved while sustaining prosperous communities. A delicate balance is required to be struck – if we move too fast in imposing controls to achieve an ideal, significant economic and social harm could be caused for little environmental benefit. In that regard, Watercare adopts the following submissions made for WARTA:

*"4.17 Prosperous communities require prosperous economies but prosperous economies will not be prosperous for long if they have significant economic costs imposed on them in a short space of time, for example:*

- (a) The significant economic costs associated with controlling diffuse discharges; and*
- (b) The potentially extraordinarily high costs related to WWTP upgrades if upgrades to WWTP discharges are required to meet Table 3.11-1 limits at the end of the pipe.*

*4.18 Given the significant economic costs on communities, it is submitted that, in the absence of amendments, PC1 does not adequately "give effect to" that fundamentally important aspect of the Vision or achieve the sustainable management purpose of the RMA.*

*4.19...*

*4.20 Section 63 of the RMA states the following with respect to the purpose of a regional plan:*

#### **63 Purpose of regional plans**

*(1) The purpose of the preparation, implementation, and administration of regional plans is to assist a regional council to carry out any of its functions in order to achieve the purpose of this Act."*

4.21 *It is submitted that PC1 as presently drafted does not achieve or promote the sustainable management purpose of the RMA on the basis that, as currently drafted, it does not enable people and communities to provide for their social and economic wellbeing; indeed, quite the opposite."*

2.28 In terms of appropriate relief, Mr Scafton's supplementary evidence<sup>4</sup> is that:

5.11 ... PC1 should be amended to:

(a) *Recognise that the achievement of the Vision and Strategy will take time and can only be achieved over a long period of time to ensure the achievement of a "healthy river" and "prosperous communities and relationships;" whilst*

(b) *Providing clear guidance as to what the expectations are on any resource consent applicant within the lifespan of those provisions in terms of contributing to achieving and maintaining those outcomes."*

### 3. **PC1 APPROACH TO POINT SOURCE DISCHARGES**

3.1 As a CCO with a wastewater discharge into the Waikato River from the Pukekohe WWTP, Watercare has (like the WARTA councils) a vital interest in the provisions of PC1 that relate to point source discharges.

#### **General approach**

3.2 As regards the general approach adopted towards point source discharges in PC1, Mr Scafton adopts the evidence of Dr Mitchell for Oji Fibre Solutions NZ Limited which is to the effect that<sup>5</sup>:

"(a) *PC1 has implications for point source discharge.*

(b) *The achievement of the Vision and Strategy already requires all sectors to implement their respective best practice measures forthwith.*

(c) *PC1 unfairly requires point sources to adopt the best practicable option, to apply offsets and to be assessed against the short-term targets of the plan in a manner that could result in those consented activities bearing the future burden to improve water quality.*

(d) *There is an existing emphasis in policy terms for meaningful improvements in water quality to be achieved."*

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<sup>4</sup> C Scafton supplementary evidence, para. 5.11.

<sup>5</sup> C Scafton rebuttal evidence, para 3.1.

- 3.3 Mr Scafton's point is that point source dischargers are already required to make reductions as applicants for point source discharge resource consents are required to have regard to the Vision and Strategy for the Waikato River and the NPS:FM as result of Watercare's experience in obtaining consents for the Pukekohe WWTP:

"3.4 ... From my experience as the lead planner for the Pukekohe WWTP Upgrade Project, whether a point-source discharge is able to be consistent with the Vision and Strategy is a key, if not the key, matter that is considered for a point source discharge consent application."

### **Inadequate policy coverage**

- 3.4 Two objectives<sup>6</sup> and 14 policies<sup>7</sup> in the WRP are directly relevant to point source discharges and a number of more general objectives and policies that apply. The appendix to Mr Scafton's rebuttal evidence sets out a helpful and comprehensive review of the policy framework relevant to point source discharges. Paragraphs 3.9-3.16 of his evidence summarise a number of policy gaps as a result of that analysis, as follows:

- (a) Benefits of infrastructure:

"...the WRP fails to fully give effect to either the NPS:UDC or the WRPS on this matter by limiting the recognition of the benefits of infrastructure to existing lawfully established infrastructure. In my view, the WRP is required to recognise the benefits of future infrastructure and associated water takes and discharges in providing for future growth."

- (b) Effects of water quality:

"...the WRP does not adequately recognise the importance of the assimilative capacity of water bodies. This is particularly important for municipal wastewater treatment plants and the associated discharges which require mixing zones in order to meet water quality targets at the end of the zone of reasonable mixing."

- (c) Social effects including education:

"...I consider that the WRP (including PC1) does not adequately recognise the benefits of municipal wastewater discharges and water takes for protecting public health."

- 3.5 Mr Scafton's evidence is that PC1 should be amended to address these shortcomings in policy coverage.

### **The issue of proportionality**

- 3.6 Mr Scafton goes on to say:

"3.5 In my opinion, there is no policy void regarding the principle of improving water quality and there are several examples of resource consent decisions made by WRC that reflect a requirement to improve water quality. There is, however, arguably a policy void in terms of identifying how much improvement is appropriate in any given resource consent process. From my experience, the level of improvement needs to be proportional to the

<sup>6</sup> Objectives 3.1.2 and 3.5.2.

<sup>7</sup> Policies 1.2.4.6, 3.2.3.1 – 3.2.3.8 and 3.5.3.1 – 3.5.5.7.

impact of the proposal, but determining this proportionality is currently highly subjective."

3.7 Mr Scafton then goes on to note that WRC reporting officers are adopting a de facto proportionality of 10% improvement by reference to Objective 3 when considering water quality improvement for the purposes of point source discharges<sup>8</sup> and that he considers that that is inappropriate on the basis that:

(a) Objective 3 was intended to relate only to the actions put in place in PC1 by 2026 to achieve the short term water quality targets / limits; and

(b) Those actions only related to the suite of implementation methods for diffuse discharges – not renewals for point source discharges.<sup>9</sup>

3.8 He also notes that it is his view that this is "particularly problematic" as reporting officers will simply adopt the 10% figure.<sup>10</sup> He then states the following:

"7.9 *I consider that Objective 3 needs to be redrafted to ensure it is clear that Objective 3 is not relevant to, and therefore should not be assessed as part of, a resource consent application for a point source discharge consent."*

3.9 As regards providing for proportionality, Mr Scafton's evidence is as follows:

8.3 *With regards to Objective 1, I provided recommended amendments to Objective 1 in my EiC and I have signalled the need for further amendments throughout this statement of evidence. To summarise, I consider that the objectives need to be amended to:*

(a) Provide guidance as to the proportionality required for any individual resource consent applicant for contributing towards protection and restoration of water quality;

...

8.4 *With regards to (a), as set above, in my view further technical work is required prior to being able to provide recommended drafting with regards to providing guidance as to the proportionality required for any individual resource consent applicant for contributing towards protection and restoration of water quality.*

(Emphasis ours).

### **WWTP discharges - the need to recognise and provide for assimilative capacity and reasonable mixing**

3.10 A significant number of municipal wastewater treatment plants ("WWTPs") discharge directly or indirectly into the Waikato or Waipa Rivers.

3.11 Mr Milne advised the Panel at the start of the Block 1 hearings that the V & S does not recognise reasonable mixing and neither should PC1. Needless

<sup>8</sup> Scafton rebuttal evidence, paragraphs 7.4 and 7.8.

<sup>9</sup> Ibid, paragraph 7.8.

<sup>10</sup> Ibid.

to say in light of the previous section that we disagree with that position. It is hardly surprising that there is no mention of reasonable mixing in the V & S given that it contains high level visions, objectives, and strategies "to be pursued" – it is obviously and deliberately aspirational in nature; it simply does not descend into that level of detail, nor does it need to.

- 3.12 Per the submissions presented for WARTA, NIWA's website contains a useful overview of what "reasonable mixing" entails:

*"The size of a mixing zone depends on the results of environmental testing. During testing, ecologists try to establish what level of pollutant can be discharged at safe levels. They might measure the effects of contaminants on fish migration, slime growth, water quality and clarity, and how quickly effluent disperses in the receiving water.*

*The tests contribute to statistical modelling and assist mapping of contaminant concentrations in the plume downstream from the outfall of a mixing zone. Regional councils can then develop definitions of reasonable mixing for various pollutants. For example, the Auckland Regional Council has set the reasonable mixing level for discharges of ammonia content in dairy washwater at 30 times the width of the receiving water downstream and 1/3 the width across."*

- 3.13 The concept is well known and well accepted, and provided for in regional plans across New Zealand, including the WRP:

"8. *The extent to which the discharge, after initial or reasonable mixing, results in:*

1. *the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or*
2. *any conspicuous change in the colour or visual clarity; or*
3. *any emission of objectionable odour; or*
4. *any significant adverse effects on aquatic life."*

- 3.14 As noted above, this provision reflects section 70 (plan rules) and 107 (resource consents) of the RMA. It is submitted that very compelling reasons would need to exist before the benefit of "after reasonable mixing" rider was, in the context of PC1, removed for discharges with significantly lesser consequences than proscribed by those provisions.

- 3.15 The best argument for not providing for reasonable mixing zones in PC1 would appear to be based on Objective (k) of the Vision, which provides for:

"(k) *the restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length:"*

- 3.16 As noted as part of the WARTA case, ultraviolet treatment of WWTP discharges prior to discharge means that E. coli limits are not likely to be exceeded at the discharge point but, even with expensive MBR technology, nitrogen and phosphorus limits may well be exceeded. Providing for a zone

of reasonable mixing in accordance with conventional engineering wisdom and regulatory practice might well address that as a result of rapid dilution.

- 3.17 Even if nitrogen limits are exceeded at or near the surface of the water where people could swim, Objective (k) does not override the Vision which requires economic considerations to be taken into account. Given the potentially extraordinary costs associated with upgrading WWTPs and the current unavailability of technology in New Zealand to meet the stringent PC1 limits at the end of the pipe, it is submitted that it is of fundamental importance that PC1 recognises and provides for reasonable mixing.
- 3.18 In that regard, we refer to the evidence given by Mr Harty for WARTA that the costs of upgrading WWTPs were assessed by GHD for the Department of Internal Affairs to achieve Attribute State B of the NPS Freshwater, being a lower standard than imposed by PC1, totalled between \$110 million and \$147 (say, \$150) million<sup>11</sup>.
- 3.19 The PC1 targets / limits in Table 3.11-1 are significantly more stringent than the Attribute State B targets / limits in the NPS Freshwater<sup>12</sup>. Mr Harty's evidence made clear that any requirement to meet those limits at the point of discharge would require technology not generally in use in New Zealand.
- 3.20 Mr Hall's evidence is that, even taking into account reasonable mixing, it is possible that the most technologically advanced pending WWTP upgrade in New Zealand (Pukekohe WWTP) would not be able to achieve the water quality target for ammonia.
- 3.21 It is also relevant to note that several consents have been issued for WWTP discharges since the Settlement Act was enacted, all (including Pukekohe WWTP) made provision for mixing zones.
- 3.22 In relation to the time frame and the technology gap, the text of PC1 recognises the issue, as it states the following in the first paragraph under the heading "*Full achievement of the Vision and Strategy will be intergenerational:*"

*"The 80-year timeframe recognises the 'innovation gap' that means full achievement of water quality requires technologies or practices that are not yet available or economically feasible."*

- 3.23 In light of all of the above, it is submitted that PC1 should be amended to provide for zones of reasonable mixing and that there are compelling reasons to do so.

#### 4. **THE NEED TO MAKE APPROPRIATE PROVISION FOR GROWTH**

- 4.1 This issue is primarily addressed in Mr Scafton's primary evidence (Section 6). The main concern is that significant growth will occur in Waikato District in which, as noted, Watercare will be providing all water, wastewater and stormwater services from 1 July 2019. Waikato District is identified as a high growth area in the NPS:UDC which, in our submission, is an NPS that needs to be "given effect to" in terms of section 67(3)(c) of the RMA.
- 4.2 In its primary submission, Watercare raised a number of concerns regarding the servicing of future growth in the Waikato Region. In particular, Watercare noted that PC1 recognises the importance of the continued operation of existing infrastructure but does not adequately

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<sup>11</sup> Tim Harty EIC , paragraph 4.3.

<sup>12</sup> Harty EIC, paragraphs 4.4 to 4.6.



recognise the obligation on Watercare and other municipal providers to service future growth and that, in some cases, this is likely to require new infrastructure, discharges and water takes.

- 4.3 Mr Scrafton's primary evidence<sup>13</sup> notes that the Reporting Officers refer only to the provision of domestic or municipal supply and does not mention the provision of wastewater services which are obviously just as important as water supply. His evidence states:

"6.8 *Having regard to the above, it is, in my opinion necessary for the provisions of PC1 to adequately recognise and provide for both existing water and wastewater infrastructure, discharges and water takes as well as future infrastructure, discharges and water takes required to support anticipated growth.*"

- 4.4 As regards "regionally significant infrastructure", Mr Scrafton has a number of criticisms in relation to the coverage of the provisions and lack of appropriate linkages and the lack of a definition of "regionally significant infrastructure" despite the fact that it is defined in the Waikato RPS.

- 4.5 It is submitted that PC1's shortcomings do not adequately "give effect to" the NPS:UDC particularly having regard to:

- (a) Objective OA1:

*"Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing"*

- (b) Objective OC1:

*"Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term."*

- (c) Objective OC2:

*"Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way."*

- (d) Policy PA3:

*"PA3: When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:*

*a) Providing for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;*

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<sup>13</sup> C Scrafton primary evidence, para. 6.7.

b) *Promoting the efficient use of urban land and development infrastructure and other infrastructure; and*

c)..."

4.6 Policy 6.3(a) of the Waikato RPS may also be considered relevant:

*"Management of the built environment ensures:*

*a) the nature, timing and sequencing of new development is co-ordinated with the development, funding, implementation and operation of transport and other infrastructure, in order to:*

*i) optimise the efficient and affordable provision of both the development and the infrastructure;*

*ii) maintain or enhance the operational effectiveness, viability and safety of existing and planned infrastructure;*

*iii) protect investment in existing infrastructure; and*

*iv) ensure new development does not occur until provision for appropriate infrastructure necessary to service the development is in place;"*

4.7 The amendments that Mr Scafton recommends<sup>14</sup> are as follows:

*"(a) Amend the values "commercial, municipal and industrial use" and "water supply" to include existing and future municipal functions and/or services;*

*(b) Include a new objective providing for regionally significant infrastructure;*

*(c) Include in the glossary section of the WRP a definition for regionally significant infrastructure consistent with the definition in the RPS; and*

*(d) Amend Policy 10 to include reference to the future operation of both existing and new regionally significant infrastructure."*

## 5. **THE NEED FOR INCLUSION OF THE "VALUES" IN PC1**

5.1 This is essentially a planning issue. Mr Scafton's main concern is how these values might be applied in the context of a resource consent process, under either section 104(1)(b) or (c). His summary notes:

*"2.4 ... whilst the NPS:FM requires a regional council to consider the freshwater values in the development of freshwater objectives, neither the NPS:FM or the RMA require that the values be included within a regional plan. However, if values are to be included in a regional plan, without sufficient clarity being provided within the regional plan, it is highly likely that the values would be "had regard to" through a resource consent process as a result of the application of either or both of section 104(1)(b) or (104(1)(c) of the RMA. In my view, the current drafting of PC1 perpetuates such uncertainty. "*

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<sup>14</sup> C Scafton Primary evidence, para. 6.10.

2.5 *On this basis, I agree with the Reporting Officer's suggestion (noting it was not a recommendation) to delete the values and uses from PC1. In my view, this approach would better align with the prescribed process set out in Policy CA2 of the NPS:FM and will remove the risk of confusion and unnecessary information requirements in resource consent processes."*

5.2 Ms O'Callahan addressed this issue in her evidence for WARTA and concludes that the values included in PC1 should be deleted for the following reasons:

- (a) The purpose of identifying the relevant values was to inform what the objectives should be by reference to the NPS Freshwater;
- (b) It is not a requirement of the NPS Freshwater that the values be included in PC1;
- (c) The values are inconsistent with each other;
- (d) The values could be considered to be relevant to assessment of a resource consent application in terms of section 104(1)(c) of the RMA; and
- (e) Inclusion of the values unnecessarily adds to the complexity of PC1.<sup>15</sup>

5.3 Mr Scafton further addressed this issue in Section 2 and 3 of his supplementary evidence in which he compares the manner in which the Values have been provided for in PC1 by comparison with the Horizons One Plan and the Canterbury Land and Water Regional Plan.

5.4 As regards the One Plan, Mr Scafton observed that the "Values" included in the One Plan are statements that describe the value and are not supported by further narrative and that it is clear which management objective relates to which Value, whereas the same degree of clarity is not evident in PC1 and needs to be rectified if the Values are to remain.

5.5 As regards the Canterbury Plan, Mr Scafton's evidence is that:

"2.9 *... the CLWP clearly identifies freshwater objectives in the Plan and these freshwater objectives are reasonably easily associated with the NPS:FM Values. I consider that it is important that the WRP provides a similar form of guidance."*

5.6 Mr Scafton goes on to state that he agrees with the concern expressed by the Panel that the Values could mean "all things to all people". He reiterates his primary statement in saying:

"3.1 *... PC1 inappropriately confuses "Values" and what could be interpreted as "narrative attribute states" or freshwater objectives or policies. In my view, and as discussed above, this is an important point when considering both:*

- (a) *Whether the Values should be included in the Plan; and*

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<sup>15</sup> O'Callahan EiC, paragraphs 2.4 to 2.7.

(b) *If so, which parts of sections 3.11.1.1 and 3.11.1.2 of PC1 are the Values. (In other words, what are values and what are not values)."*

5.7 He goes on to say:

"3.5 *As currently drafted, I consider that, having regard to Figure 5 of the Guide to the National Policy Statement for Freshwater Management 2014<sup>16</sup> (NPS:FM Guide), what PC1 identifies as "Values" consists of "Values" and potentially "Narrative Attribute States" and/or "freshwater objectives" and "policies".*"

5.8 And concludes:

"3.8 *Consequently, if the Values are to be included in the WRP, in my view the narratives included within the PC1 tables should be deleted and the Values should only be included within the WRP in a manner that assists a plan user to understand which freshwater objective responds to which Value.*"

5.9 Watercare's submission is that it is preferable that the Values are deleted entirely for the reasons outlined in the Watercare and WARTA planning evidence. If not, they will need serious attention to address the issues that have been raised.

## 6. **WATER QUALITY AND WATER QUALITY TARGETS**

6.1 A key concern that Watercare has in relation to PC1 relates to water quality the targets that are set. Mr Hall's evidence addresses the following matters in that regard:

- (a) Seasonality effects;
- (b) Targets for total ammoniacal nitrogen;
- (c) Long term water quality targets – artificial boundaries; and
- (d) Long term water quality targets – errors in relation to nitrogen targets.

6.2 Each of these matters is addressed briefly below.

### **Seasonality effects**

6.3 Seasonality effects arise as a result of changing weather during the four seasons of the year. Mr Hall notes this in his evidence where he states the following:

"4.3 *The seasonality effects of discharges, i.e., differentiating between summer and winter effects and related consent limits, are recognised in several discharge consents in the Waikato River catchment. However, such effects are not currently recognised or provided for in the objectives for PC1.*"

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<sup>16</sup> as amended in 2017

- 6.4 Mr Hall then goes on to refer to the different limits for total nitrogen ("TN") and total phosphorous ("TP") in the recently granted consent for the Pukekohe Wastewater Treatment Plant and notes that the TN and TP that can be discharged in winter pursuant to those limits is significantly greater than can be discharged in summer.<sup>17</sup> That is because during winter there is greater rainfall and, therefore, the Waikato River has much greater assimilative capacity to dilute total TN and TP loads in winter than it does in summer.<sup>18</sup> Algae in the Waikato River also grows at a much slower rate in winter than summer.
- 6.5 Mr Hall also notes in his evidence that there is an explanatory note related to seasonality that refers to five yearly monitoring which he considers to be appropriate to account for seasonal variation between years, but not between summer and winter in any year.<sup>19</sup> He therefore considers that amendments are necessary and these amendments should be to policies of PC1.<sup>20</sup> Finally, Mr Hall notes that amendments to policies is a Block 2 hearing matter and he will address the point further in those hearings.<sup>21</sup>

### **Targets for total ammoniacal nitrogen**

- 6.6 Mr Hall notes two issues with the short term and long term water quality targets for total ammoniacal nitrogen:
- (a) The targets are less than half the detection limit at several monitoring sites;<sup>22</sup> and
  - (b) Apparent inconsistencies between the WRC Data Report 2016 and the section 32 Report for several monitoring sites.<sup>23</sup>
- 6.7 The concern arising from these two issues with respect to discharges from WWTPs is that they contain relatively elevated concentrations of ammonia and even the recently consented Pukekohe WWTP would not meet the targets in summer low flow conditions toward the end of the 35 year duration of the consent.<sup>24</sup>
- 6.8 Mr Hall therefore recommends amendments to the targets in Table 3.11-1 so that they are consistent with the WRC Data Report 2016 five year median values.<sup>25</sup>

### **Long term water quality targets – artificial boundaries**

- 6.9 The two issues that arise in regard to long term TN and TP water quality targets are that:
- (a) They do not allow for the cumulative increase in TN and TP down the Waikato River to reflect the gradual deterioration that occurs between Taupo and Port Waikato; and
  - (b) There are some large jumps between some monitoring sites that would enable unjustifiably significant increases in discharges of TN and TP between the monitoring sites.<sup>26</sup>

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<sup>17</sup> Hall evidence in chief, paragraphs 4.4 and 4.5.

<sup>18</sup> Ibid, paragraph 4.6.

<sup>19</sup> Ibid, paragraphs 4.7 and 4.8.

<sup>20</sup> Ibid, paragraph 4.9.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid, paragraphs 5.5 to 5.8.

<sup>23</sup> Ibid, paragraph 5.9.

<sup>24</sup> Ibid, paragraphs 5.10 to 5.12.

<sup>25</sup> Ibid, paragraph 5.13.

<sup>26</sup> Ibid, paragraphs 6.1 to 6.7.

- 6.10 Given the above, Mr Hall is of the view that the long term targets for TN and TP should reflect the gradual deterioration of water quality down the Waikato River and a downstream target of 0.35mg/L for TN should apply at Tuakau. However, Mr Hall does not include revised targets for TN and TP in light of the large amount of water quality modelling that has been undertaken for PC1.<sup>27</sup>

**Long term water quality targets – errors in relation to nitrogen targets**

- 6.11 Mr Hall notes in his evidence that at Waipawa, Huntly, and Mercer the long term nitrate targets exceed the long term TN targets and that this is impossible as nitrate is a component of TN.<sup>28</sup> He therefore states the following:

"7.6 Given the above, there is in my opinion a need to review both the nitrate and TN limits for sites downstream of Whakamaru, for both the accuracy of the concentration value and the relative proportion of nitrogen species.

7.7 NIWA has developed a specific water quality model for PC1, so would make sense that this work is undertaken by NIWA and then made available to submitters."

- 6.12 Mr Hall addresses a number of matters in his rebuttal evidence and, in that regard, notes that he agrees with various experts:

- (a) That the process and methodology to define the current state of water quality in the rivers has not been documented and should have been made available;
- (b) That including dissolved oxygen limits in Table 3.11-1 should be considered; and
- (c) Regarding potential errors in the chlorophyll-a, TN, and TP targets.

- 6.13 Mr Hall also agrees with Dr Ausseil that the technical process used for the targets in Table 3.11-1 was used too rigidly.

- 6.14 Mr Hall notes that his view, along with some other experts, is that the Panel should consider the possibility of including the macroinvertebrate community index in the provisions of PC1 as a measure of water quality.

- 6.15 Mr Hall also addresses his agreement with some experts regarding the nutrient limitation status of the Waikato River and the implication of that for point source discharges from WWTPs and concludes that:

"... any future management interventions through PC1 should recognise that both TN and TP have nutrient growth effects on algal biomass (and not focus solely on one nutrient or the other); however multiple lines of evidence suggest that algal growth is more strongly controlled by phosphorus than nitrogen for the majority of the time."

- 6.16 These matters will be the subject of expert conferencing; however, the key issue remains (regardless of what the numbers become) as to how the Table 3.11-1 values will be used during any future resource consent process.

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<sup>27</sup> Ibid, paragraph 6.10.

<sup>28</sup> Ibid, paragraph 7.4.

## 7. PROPOSED AMENDMENTS TO PC1

7.1 In light of the matters addressed in the evidence for Watercare, Mr Scrafton is recommending a number of amendments to PC1. Those amendments are attached as Appendix A to Mr Scrafton's evidence in chief and further amendments are addressed in his rebuttal evidence. In summary, the recommended amendments are as follows:

- (a) Deletion of the Values, but, if the Values are not deleted, then inclusion of:
  - (i) an explanation to make it clear that the Values are not "provisions" or "any other matter" to be considered in the resource consent process; and
  - (ii) words to make it clear that the Values include existing as well as future municipal water supply.
- (b) Amendments to make it clear that rivers, lakes, and wetlands provide for existing and future municipal wastewater discharges.
- (c) Amendments to Objective 1 to require progressive reduction of diffuse and point source discharges with the aim of achieving the aspirational long term water quality targets.
- (d) Amendments to Objective 3 to make it clear that it is not intended to apply to point source discharges from WWTPs – see paragraphs 7.7 to 7.10 of Mr Scrafton's rebuttal evidence rather than Appendix A to his evidence in chief.
- (e) Two new objectives:
  - (i) Objective 5 to recognize the assimilative capacity of the Waikato and Waipa Rivers; and
  - (ii) Objective 6 to recognize the importance of existing and future regionally significant infrastructure.
- (f) Inclusion of a definition of regionally significant infrastructure.

7.2 Appendix A to Mr Scrafton's evidence in chief also includes an amendment to Policy 3.11.3.10. That proposed amendment will be superseded by a proposed amendment to be included in Mr Scrafton's evidence for the Block 2 hearings.

7.3 Counsel also note that Mr Scrafton's supplementary evidence includes further analysis of the Values and objectives of PC1 and notes that if the Values are to be retained, which Mr Scrafton does not recommend, then:

- (a) A number of the proposed objectives of PC1 will need to be modified to integrate key themes of the PC1 Value narratives; and
- (b) There will need to be further consideration and clarification of the purpose of the narratives that support the values.<sup>29</sup>

## 8. PRINCIPAL SUBMISSION

8.1 Watercare acknowledges:

- (a) The vital relationship that the Waikato and Waipa River Iwi have with the Waikato and Waipa Rivers;

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<sup>29</sup> Scrafton supplementary evidence, paragraph 4.6(b) and (c).

- (b) The fundamental importance of achieving the Vision for the Waikato River over the long term; and
- (c) That the economic costs of achieving the Vision do not override its requirement to protect and restore the Waikato River so that in the long term it is healthy and sustains prosperous communities and abundant life.

8.2 Achieving the Vision is a long term journey and PC1 only represents the first step in that journey. It is nevertheless a very important first step that needs to be undertaken in a manner and at a rate that ensures that the prosperous communities envisaged by the Vision can ensure that the Waikato River is protected and restored so that it is healthy and contains abundant life, which Watercare acknowledges to be the primary goal of the Vision.

8.3 To briefly recap Watercare's concerns and requests:

- (a) The values identified in PC1 lack clarity and may result in confusion or unnecessary information requirements. The values should be deleted or, as a minimum, amended to:
  - (i) include an explanation to make it clear that the Values are not "provisions" or "any other matter" to be considered in the resource consent process;
  - (ii) include words to make it clear that the Values include existing as well as future municipal water supply; and
  - (iii) make it clear that rivers, lakes, and wetlands provide for existing and future municipal wastewater discharges.
- (b) Objective 1 of PC1 needs to be amended to require progressive reduction of diffuse and point source discharges with the aim of achieving the aspirational long term water quality targets in Table 3.11-1.
- (c) Amendments are also required to Objective 3 to make it clear that it does not apply to point source discharges from WWTPs.
- (d) PC1 does not make adequate provision in its objectives for existing municipal water and wastewater infrastructure and future water and wastewater infrastructure to support growth. To that extent, PC1 does not adequately give effect to the NPS:UDC Development and the equivalent provisions of the Waikato RPS. In that regard, it is worth noting that new wastewater discharges do not necessarily equate to degraded water quality. As per the Pukekohe WWTP – new infrastructure can provide for significant population growth and also achieve a downstream improvement in water quality (compared to the effects of the existing discharge) albeit at high cost.
- (e) Amendments are therefore required to the objectives to ensure that PC1 recognises the importance of existing and future regionally significant water supply and wastewater infrastructure and associated discharges, including inserting a definition of regionally significant infrastructure.
- (f) The objectives of PC1 do not adequately recognise the assimilative capacity of the Waikato and Waipa Rivers and the importance of



that with respect to dilution of discharges from wastewater treatment plants. A new objective is required in that regard.

- (g) There are shortcomings with the water quality targets, including:
- (i) The short and long term water quality targets / limits for ammonia are unrealistically low at numerous locations. – Even a best available technology treatment plant would not achieve the target / limit after reasonable mixing.
  - (ii) The long term water quality targets included in PC1 do not reflect a gradual deterioration of water quality down the rivers arising from cumulative effects of discharges.
  - (iii) There is nothing in the short term or long term water quality targets / limits recognising variation between summer and winter seasons.
- 8.4 Watercare shares the WARTA councils concerns that PC1 as it is presently formulated does not give effect to the Vision, or the purpose of the RMA, due to the potentially significant economic costs arising from upgrades to WWTPs that would be required to achieve the targets / limits in Table 3.11-1 if a zone of reasonable mixing is not recognised for WWTP discharges, resulting in the targets / limits having to be met at the end of pipe.
- 8.5 Given its increasing role as an infrastructure operator in the Waikato Region, Watercare also endorses WARTA's position that, in undertaking the first step in the journey, significant and unnecessary economic burdens should not be imposed on infrastructure providers which must inevitably be passed on to the communities that are a vital part of achieving the Vision.
- 8.6 Watercare looks forward to continuing to participate in this process in a constructive and collaborative manner.

DATED this 26<sup>th</sup> day of April 2019

  
\_\_\_\_\_  
S J Berry

  
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C D H Malone

**Counsel for Watercare Services Limited**