



Chief Executive
Waikato Regional Council
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HAMILTON

TO: Waikato Regional Council

SUBMISSION ON: Waikato Regional Plan Proposed Plan Change 1

FROM: Watercare Services Limited ("**Watercare**")

ADDRESS FOR SERVICE: The address for service specified below

DATE: 8 March 2017

Watercare could not gain an advantage in trade competition through this submission.

1. INTRODUCTION

1.1 Watercare's purpose and mission

Watercare Services Limited ("**Watercare**") is New Zealand's largest provider of water and wastewater services. Watercare is a council-controlled organisation under the Local Government Act 2002 and is wholly owned by the Auckland Council.

Watercare is a company registered under the Companies Act 1993.

Watercare provides integrated water and wastewater services to approximately 1.4 million people in Auckland. Watercare collects, treats and distributes drinking water from 11 dams, 26 bores and springs, and four river sources. A total of 330 million litres of water is treated each day at 15 water treatment plants and distributed via 89 reservoirs and 90 pump stations to 450,000 households, hospitals, schools, commercial and industrial properties. Watercare's water distribution network includes more than 9,000 km of pipes. The wastewater network collects, treats and disposes of wastewater at 18 treatment plants and includes 7,900 km of sewers.

As a council-controlled organisation ("**CCO**") under the Local Government Act 2002, and a substantive council-controlled organisation under the Local Government (Auckland Council) Amendment Act 2009 ("**Auckland Act**"), Watercare has certain obligations. For example, Watercare must achieve its shareholder's objectives as specified in the statement of intent, be a good employer and exhibit a sense of social and environmental responsibility.¹

¹ Local Government Act 2002, s 59.

As the CCO that provides water and/or wastewater services in Auckland,² Watercare is also required to manage its operations efficiently with a view to keeping overall costs of water supply and wastewater services to its customers (collectively) at minimum levels, consistent with effective conduct of the undertakings and maintenance of long-term integrity of the assets. Watercare must also not pay a dividend.³ Watercare must also give effect to relevant aspects of the Council's Long Term Plan, and act consistently with other plans of the Council.⁴

As a substantive CCO, Watercare has a number of statutory accountability mechanisms, including the requirement to prepare and maintain a statement of intent,⁵ undergo performance monitoring, provide an annual report, give effect to the Long Term Plan, and act consistently with other specified plans and strategies of the Council.

1.2 Watercare's Waikato interests

Watercare has special interests in the Waikato Region, which includes:

- a) Watercare currently has an existing allocation to take 150,000 m³/day from the Waikato River, and is applying to take another 200,000 m³/day. Auckland's population is forecast to grow by another one million people over the next 30 years. This is a significant increase on the 1.4 million people currently connected to Watercare's water and wastewater networks.
- b) The Pukekohe Wastewater Treatment Plant will be subjected to significant population growth as identified in the Auckland Plan 2012. This growth is from approximately 27,500 in 2015 through to 82,200 in 2051.
- c) Watercare and the Waikato District Council are parties to a Bulk Supply Agreement for the provision of water and wastewater services to the growing townships of Pokeno and Tuakau within the Waikato District. These services include: the provision of bulk treated drinking water; transmission and treatment of bulk wastewater; and maintenance services for local network reticulation.
- d) Watercare's two largest water dams in the Hunua Ranges (the Mangatawhiri and Mangatangi dams) are located in the Waikato Region.

2. SUBMISSION

2.1 General

Watercare is pleased to have the opportunity to make a submission on the Waikato Regional Plan Proposed Plan Change 1 – Waikato and Waipa River Catchments (“PPC 1”) that was publicly notified on 22 October 2016.

² As defined in section 4 of the Local Government (Auckland Council) Act 2009.

³ Local Government (Auckland Council) Act 2009, s 57.

⁴ Local Government (Auckland Council) Act 2009, s 58.

⁵ This statement of intent covers a three year period, and requires Watercare to publicly declare its activities and intentions for the year, and how this will achieve its objectives: it provides an opportunity for shareholders to influence the organisational direction; and a basis for accountability for directors and shareholders. It also carefully considers section 58 of the Local Government Act 2009, which requires Watercare to give effect to relevant aspects of the Council's Long Term Plan, and each year, prior to the statement of intent review, Watercare receives a letter of expectation from the Mayor which significantly influences Watercare's direction and allows for alignment with the Council.

Watercare is in principle supportive of PPC 1. However, there are several aspects that in Watercare's view do not necessarily meet the requirements of the Resource Management Act 1991 ("RMA") or represent the most appropriate means of achieving the purpose of the Act or give effect to the National Policy Statement Freshwater Management ("NPS FM"), the National Policy Statement on Urban Development Capacity and Waikato Regional Policy Statement. It is our view that PPC 1 needs to be amended to address these concerns. In addition, a number of the provisions should be redrafted to assist with the overall workability of PPC 1, to remove ambiguities and avoid disputes over interpretation, and to improve clarity.

Watercare is also concerned about the adequacy of the Section 32 Assessment undertaken in respect of PPC 1 and whether it meets the requirements of the RMA.

More specifically, Watercare requests a number of amendments to PPC 1 as outlined in the remainder of our submission.

2.2 Policy 10: Provide for point source discharges of regional significance/Te Kaupapa Here 10: Te whakatau i ngā rukenga i ngā pū tuwha e noho tāpua ana ki te rohe

2.2.1 Watercare's submission

Watercare is supportive of Policy 10 because its intention is to provide for point discharges to water associated with the operation of regionally significant infrastructure. However, the policy only provides for discharges for the "continued operation of regionally significant infrastructure" and does not recognise the need to provide for future growth. As set out in section 1 above, Watercare has responsibilities regarding the provision and operation of wastewater and water supply infrastructure for future growth. In addition, the requirements of the National Policy Statement on Urban Development Strategy regarding the planning and provision of infrastructure to service short, medium and long-term development capacity must be given effect to.

For reasons of clarity Watercare also considers that a definition of "regionally significant infrastructure" as contained in the Waikato Regional Policy Statement should be included in the Glossary of Terms in PPC 1.

2.2.2 Decision sought

Watercare seeks that Policy 10 be retained, but amended to include in addition to the continued operation of regionally significant infrastructure also its future development to service growth.

Watercare seeks the inclusion in the Glossary of Terms section of PCC 1 the definition of "regionally significant infrastructure" as defined in the Waikato Regional Policy Statement.

2.3 3.11.1 Values and uses for the Waikato and Waipa Rivers/Ngā Uara me ngā Whakamahinga o ngā Awa o Waikato me Waipā

2.3.1 Watercare's submission

Watercare supports in principle section 3.11.1 Values and uses for the Waikato and Waipa Rivers/Ngā Uara me ngā Whakamahinga o ngā Awa o Waikato me Waipā of PPC 1, but seeks

clarification regarding a number of matters that are set out below. Watercare also considers the provisions need amending for reasons of clarification and to better recognise Watercare's requirements and responsibilities in terms of providing water and wastewater services for the health and social and economic wellbeing of communities and for their future growth.

PPC 1 states that the NPS FM process followed in developing PPC 1 included identifying freshwater management units and the values for each. Map 3.11-1 shows the freshwater management units for the Waikato and Waipā River catchments. However, section 3.11.1 describes values and uses for the Waikato and Waipa Rivers and not the freshwater management units and states that these provide background to the objectives and limits.

There is a lack of clarity regarding how the process prescribed in the NPS FM for developing freshwater objectives and values for freshwater management units relates to the process followed in developing PPC 1. It is unclear whether the objectives and values required under the NPS FM to be developed by regional councils are those that are included in PPC 1.

Section 3.11.1 contains a series of tables relating to values. It is unclear as to the status of the tables in PPC 1, for example are they policies or methods. It is also unclear how the tables are to be applied, for example are they to be applied as assessment criteria when considering resource consent applications. Also the tables contain two columns with text in each column. The columns have no headings and therefore it is unclear as to what the text in each column relates to. The tables contain three headings which use inconsistent language. It is unclear what each heading relates to and why three headings are required.

Considered in the context of the above matters, Watercare is generally supportive of the water supply table and the commercial, municipal and industrial use table. However, in terms of the water supply table reference should be made to "domestic or municipal supply. This term is defined in the Waikato Regional Plan and therefore for reasons of clarity should be used in PPC 1. The table should also include reference to the need to have water available for domestic or municipal supply.

In terms of the commercial, municipal and industrial use table Watercare considers that wastewater disposal should be separated from the other discharges. It should be a standalone provision (table) which recognises that the importance of the rivers' assimilative capacity for wastewater discharges from municipal wastewater treatment plants because they are required for the health and social and economic wellbeing of communities and for their future growth.

2.3.3 Decisions sought

Watercare seeks clarification from the Waikato Regional Council regarding:

- a) how the process prescribed in the NPS FM for developing freshwater objectives and values for freshwater management units relates to the process followed in developing PPC 1; and
- b) whether the objectives and values included in PPC 1 have been developed and designed to give effect to the requirements of the NPS FM and particularly Policies CA1-CA4.

Watercare seeks that section 3.11.1 Values and uses for the Waikato and Waipa Rivers/Ngā Uara me ngā Whakamahinga o ngā Awa o Waikato me Waipā be amended to clarify:

- a) the status of the value tables i.e. are they objectives, policies or methods;
- b) how the value tables are to be applied when assessing resource consent application. For example are they to be applied as assessment criteria;
- c) the nature of the content contain two columns of each table; and
- d) the purpose of the three headings which apply to each table.

Watercare seeks that the water supply value table be amended to refer to “domestic or municipal supply” and to refer to the need for water to be available for existing and future domestic or municipal supply.

Watercare seeks that the inclusion of a new values table in section 3.11.1 that relates solely to municipal processes. The table should include provisions relating to the use of rivers for municipal processes and the importance of the rivers’ assimilative capacity for discharges from municipal wastewater and water treatment plants and from other municipal activities. The table should also include provisions that recognise of the benefits of these activities in terms for the health, safety and social and economic wellbeing of communities and for enabling their future growth.

2.4 Water quality targets

2.4.1 Watercare’s submission

Watercare is concerned that the water quality targets do not recognise the seasonality of nutrient effects on chlorophyll a concentrations and visual clarity, and the subsequent differentiation of summer and winter periods inherent in many existing discharge consents to the Waikato River catchment.

If a seasonal approach is not adopted in respect of future resource consents, and requirements to meet more stringent Total Nitrogen and Total Phosphorus loads on an annual basis are imposed, this will have significant financial implications for Watercare and other municipal wastewater authorities. It will result in the need for additional treatment requirements and an increase in capital and operational costs.

The water quality targets for ammonia contained in PPC 1 are below the current detection limit of the analytical methods used by the Waikato Regional Council as given in the historical records, and Watercare are unclear of the evidential basis to support the setting of these targets which are considered to be very low in relation to the historical water quality records. It has been assumed these targets have been arrived at by the statistical method used to account for non-detect data. For example, the Waikato River water quality monitoring programme uses an analytical method for ammonia with a detection limit of 0.01 g/m³. A common statistical method to address non-detect data is to halve the detection limit, which in this case would be 0.005 g/m³. Some of the water quality targets are less than this value, for example the short and long term target for the Waikato River at Tuakau Bridge is 0.003 g/m³. Watercare considers that this will have implications for future discharge consent processes where ammonia is a contaminant of concern. The reason for this is because relatively small inputs of ammonia may adversely affect the ability to achieve the downstream water quality target.

The long-term water quality targets for Total Nitrogen, Total Phosphorus and chlorophyll-a are the same downstream of Hamilton as those in the Lower Waikato River. Watercare is concerned that the discharge of contaminants (including treated wastewater) in the Lower Waikato River will not be able to occur without adversely affecting the water quality target unless the concentrations of Total Nitrogen and Total Phosphorus are lower in the discharge than the river water quality target (i.e. a dilution effect). Whilst wastewater treatment technologies currently exist to reduce total phosphorus to these concentrations (i.e. the long-term water quality target) there are no such technologies available to reduce total nitrogen to the extent required. This will have significant implications for all wastewater discharges in the long-term.

The targets should recognise the gradual deterioration of water quality along the length of the Waikato River and PPC 1 should not put in place artificial boundaries that favour discharges in the upper catchments over those in the lower catchment be removed.

2.4.2 Decisions sought

Watercare seeks that PCC 1 recognises the seasonality of nutrient effects from point source discharges as is current practice with many existing point-source discharge resource consents to the Waikato River.

Watercare seeks clarification from the Waikato Regional Council regarding how historical data has been handled to derive water quality targets for ammonia and the implication for assessing effects of point source discharges.

Watercare seeks that the long term water quality targets for Total Nitrogen, Total Phosphorus and chlorophyll-a be amended to recognise the gradual deterioration of water quality along the length of the Waikato River and that the artificial boundaries that favour discharges in the upper catchments over those in the lower catchment be removed.

2.5 Drafting of objectives and policies

2.5.1 Watercare's submission

Watercare is concerned that many of the objectives and policies contained in PCC 1 are not well drafted and in many cases are not RMA statutory plan objectives and policies. A number (e.g. Objectives 1 and 3) are targets, or 'objectives' that one would expect to see in an implementation / action plan. Others are drafted as rules or standards and some are just statements (e.g. Objective 3). Many of the headings are very lengthy and it is not clear whether they are simply headings or actually form part of the objective or policy (e.g. Objectives 1 and 3).

A number of objectives and policies (e.g. Policy 7 requires information collection and research) appear to be focussed on providing direction for future Waikato Regional Council actions (including future plan change processes, sub catchment planning (e.g. Policy 9)) as opposed to resource consent processes. If such objectives and policies are intended to be assessed as part of a resource consent process, it will be problematic to demonstrate how the application will achieve the requirement or outcome.

There are also a number of objectives and policies that appear to be focussed on the management of non-point source discharges but could however, be interpreted as applying to point source discharges (e.g. Objectives 3 and 4 and Policies 1, 5 and 9).

The combination of these issues will make it difficult for an applicant or a decision maker to determine if an application will achieve the objectives and policies or be contrary to them. This will make future consenting processes problematic with disputes over interpretation of provisions and problems in demonstrating how an application is consistent with the objectives and policies

2.5.2 Decisions sought

Watercare seeks that the PCC 1's objectives and policies are redrafted so that they are RMA statutory plan objectives and policies and that they reflect best practice RMA plan drafting.

Watercare seeks that the objectives and policies be amended to clearly identify the objectives and policies that apply to farming activities and those that apply to municipal discharges.

2.6 Policy 11: Application of Best Practicable Option and mitigation or offset of effects to point source discharges/Te Kaupapa Here 11: Te whakahāngai i te Kōwhiringa ka Tino Taea me ngā mahi whakangāwari pānga; te karo rānei i ngā pānga ki ngā rukenga i ngā pū tuwha

2.6.1 Watercare's submission

Watercare supports in principle the application of Best Practicable Option (BPO) and offsetting as proposed by Policy 11. However, Watercare has a number of concerns regarding the Policy's interpretation of BPO and its approach to offsetting.

The BPO approach proposed by Policy 11 is inconsistent with that of the RMA. The policy is requiring the BPO to avoid or mitigate adverse effects rather than as the RMA requires the consideration options to determine the best practicable one to prevent or minimise adverse effects.

Policy 11 requires all adverse effects of point source discharges to be either avoided or mitigated and where this cannot be achieved any residue adverse effects need to be offset. This requirement is inconsistent with the RMA on a number of counts. Firstly, the RMA is not a "no effects statute" the Act clearly contemplates that activities will have adverse effects. Secondly, while offsetting is a generally accepted practice it is applied where significant adverse effects cannot be avoided, remedied or mitigated. It should not be applied to address any residual effects unless the residue effects are significant. The RMA does not require all effects to be avoided, remedied, mitigated or offset.

Watercare also has concerns regarding the drafting of Policy 11. It is convoluted, imprecise and does not represent good RMA policy drafting.

2.6.2 Decisions sought

Watercare seeks that Policy 11 be retained, but that it be amended to be consistent with the RMA. The requirement to adopt BPO must relate to consideration of options to determine the best practicable one to prevent or minimise adverse effects and requirement for offsetting should only relate to residual effects that are significant adverse effects.

Watercare also seeks that Policy 11 be redrafted to reflect best practice RMA policy drafting and simplified by splitting it into two policies, one relating to BPO and one relating to offsetting.

2.7 Policy 12: Additional considerations for point source discharges in relation to water quality targets/Te Kaupapa Here 12: He take anō hei whakaaro ake mō ngā rukenga i ngā pū tuwha e pā ana ki ngā whāinga ā-kounga wai

2.7.1 Watercare's submission

Watercare is generally supportive of Policy 12. This is because the matters set out in a) to d) are very relevant when assessing resource consent applications for point source discharges. Given the relevance and importance of these matters Watercare considers that the policy should be strengthened so that applicants and decision makers are required to "have particular regard to these matters" rather than simply "take into account".

Watercare also considers that b) has mixed up two the concepts of technology upgrades, and modelling and monitoring and should be amended to avoid confusion.

2.7.2 Decisions sought

Watercare seeks the retention of Policy 12, but that it be amended so that applicants and decision makers are required to "have particular regard to" matters a) to d) rather than simply "take into account".

Watercare also seeks that matter b) be split into two parts, with the first part relating to technology upgrades and the second part relating to modelling and monitoring.

2.8 Policy 13: Point sources consent duration/Te Kaupapa Here 13: Te roa o te tukanga tonu whakaaetanga mō te pū tuwha

2.8.1 Watercare's submission

Watercare is generally supportive of Policy 13. This is because the matters set out in a) to c) are very relevant when determining the duration of resource consents for point source discharges. However, Watercare does have concerns regarding the drafting of Policy 13

Watercare considers that Policy 13 should be strengthened so that decisions makers and applicants must consider matters a) to c) when determining an appropriate duration for a resource consent for a point source discharge. In addition, matter a) should be amended to require applicants to demonstrate the extent to which Policies 11 and 12 will be met.

Watercare is also of the view that the need to provide infrastructure to meet the servicing requirements for long-term growth should be included as a relevant matter when determining

consent duration. This is consistent with the National Policy Statement on Urban Development Capacity.

2.8.2 Decisions sought

Watercare seeks the retention of Policy 13, but that it be amended to:

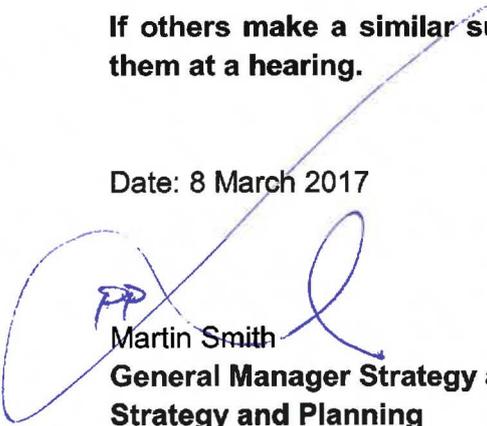
- a) clarify that matters a) to c) must be considered when determining the duration of any resource consent;
- b) clarify that matter a) requires applicants to demonstrate the extent to which Policies 11 and 12 can be met; and
- c) include an additional matter regarding the need to provide infrastructure to meet the servicing requirements for long-term growth.

Watercare also seeks that Policy 11 be redrafted to reflect best practice RMA policy drafting.

Watercare wishes to be heard in support of its submission.

If others make a similar submission, Watercare will consider presenting a joint case with them at a hearing.

Date: 8 March 2017



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