

BEFORE THE INDEPENDENT HEARINGS PANEL
THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

UNDER the Resource Management Act 1991 (“**RMA**”)

IN THE MATTER OF hearing submissions and further submissions on the
Proposed Waikato District Plan (Stage 1) Hearing 3
Topic 3: Strategic Objectives

BY **TATA VALLEY LTD**
Submitter

REBUTTAL STATEMENT OF CHRISTOPHER JAMES SCRAFTON
(PLANNING)

Dated: 22 October 2019

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1. INTRODUCTION

- 1.1 This rebuttal statement relates to primary planning evidence¹ filed on behalf of TaTa Valley Ltd (**TVL**) in relation to Topic 3: Strategic Objectives as part of Stage 1 of the Proposed Waikato District Plan (**PWDP**).
- 1.2 My qualifications and expertise are previously set out in my primary evidence on Topic 2. I repeat the confirmation given in my primary evidence that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and my evidence has been prepared in accordance with that Code.

2. SCOPE OF REBUTTAL

- 2.1 This statement of rebuttal evidence responds to the Primary Statements of Evidence of:
- (a) Mark Davey for Waikato District Council, 15 October 2019;
 - (b) Ken Tremaine for Future Proof Implementation Committee, 14 October 2019;
 - (c) Miffy Foley for Waikato Regional Council, 15 October 2019;
 - (d) Alice Morris for Hamilton City Council, 15 October 2019; and
 - (e) Lynette Wharfe for Horticulture New Zealand, 15 October 2019.

3. STRATEGIC DIRECTIONS AND OBJECTIVES

- 3.1 I previously raised concerns about the role, function and location of the proposed strategic direction and objectives sections of the PWDP. A number of submitters have also provided statements of evidence either in support or opposition of the inclusion and/or details of the proposed strategic objectives and directions in the PWDP. For example (but not exhaustive):
- (a) Mr Davey for the Waikato District Council does not support the Reporting Officer's approach and seeks the creation of a

¹ Primary Evidence of Chris Scrafton in relation to Topic 3: Strategic Objectives, 15 October 2019.

standalone chapter containing all of the strategic objectives.² He has also proposed an entirely new set of strategic objectives for inclusion in the PWDP;

- (b) Mr Tremaine for the Future Proof Implementation Committee notes that in his view, the content of Chapter 1.12 is consistent with Future Proof 2017³ and aligns with the Waikato RPS.⁴ He also notes that the original submission of Future Proof Implementation Committee seeks to move the strategic directions and objectives into their own chapter given their importance in terms of setting the scene for the District Plan (and not remain in the introduction as per the recommendations of the s42A Reporting Officer).⁵ Mr Tremaine has confirmed this preference for a standalone chapter in his primary evidence.
- (c) Ms Foley for the Waikato Regional Council (**WRC**) supports the recommendations of the s42A Reporting Officer seeking to clarify the purpose of Chapter 1.12 but seeks amendments to one of the proposed strategic objectives.⁶
- (d) Ms Morris for Hamilton City Council (HCC) supports the recommendation of the s42A Reporting Officer to reorganise Chapter 1.12 and introduce a new Chapter 1.13 for strategic objectives.⁷ Ms Morris also supports the overall approach of separating strategic directions from strategic objectives to provide greater clarity.⁸

3.2 I provide a response to each of the above in more detail below. For clarity, I confirm that from my review of these statements of evidence, I retain the views expressed in my primary evidence regarding the suggested content, format and structure for the strategic directions and 'district wide' objectives⁹.

² Waikato District Council (697.314).

³ Paragraph 4.2 of the statement of evidence of Ken Tremaine for Future Proof Implementation Committee, 14 October 2019.

⁴ Paragraph 5.5 of the statement of evidence of Ken Tremaine for Future Proof Implementation Committee, 14 October 2019.

⁵ Paragraph 8.1 of the statement of evidence of Ken Tremaine for Future Proof Implementation Committee, 14 October 2019.

⁶ Paragraph 15 of statement of evidence of Miffy Foley for Waikato Regional Council, 15 October 2019.

⁷ Paragraph 25 of statement of evidence of Alice Morris for Hamilton City Council, 15 October 2019.

⁸ Paragraph 28 of statement of evidence of Alice Morris for Hamilton City Council, 15 October 2019.

⁹ Paragraph 8.1 of statement of primary evidence of Chris Scrafton for TaTa Valley Ltd, 15 October 2019.

Waikato District Council – Mr Davey

- 3.3 Mr Davey recommends the inclusion of a new chapter “Strategic Direction” that includes reworded objective statements, which “*apply district-wide*” and given where they are located, “*a high level of primary and weight will be afforded to them*”.¹⁰ Further to this, Mr Davey notes “*the value of genuine ‘strategic objectives’ is that their weight in decision-making processes will be elevated and a clearer line of site will be created throughout the plan hierarchy.*”
- 3.4 Mr Davey elaborates on what he considers to be strategic objectives being “*overarching outcome statements that apply to the whole District rather than any particular zone, environment or feature.*”¹¹
- 3.5 Finally, Mr Davey interprets Clause 7.1(c) of the National Planning Standards (**the Standards**) noting “*that policies which implement the objectives are appropriate to be contained in other chapters. This means that the new Strategic Direction chapter can be focused on strategic objectives, rather than needing to import policies and rules.*”
- 3.6 In relation to these points:
- (a) I agree with Mr Davey in respect of creating a separate chapter for ‘district wide’ objectives (in line with the directions of the Standards) and this is reflected in paragraph 7.2 of my primary evidence.
 - (b) I do not agree with Mr Davey regarding the use of the term ‘strategic’ objectives or of elevating their weight in decision making processes for the reasons discussed in paragraph 7.3 of my primary evidence. In summary there is no higher order guidance or requirement (including within the Standards) to include ‘strategic’ objectives within a District Plan, nor is there a requirement under the RMA to consider objectives and policies differently when assessing resource consent applications.

¹⁰ Paragraph 21 of the statement of evidence by Mark Nairn Davey for Waikato District Council, 15 October 2019.

¹¹ Paragraph 25 of the statement of evidence by Mark Nairn Davey for Waikato District Council, 15 October 2019.

- (c) I am particularly concerned about the proposal to add a full new range of “strategic” objectives through evidence where submitters have not had an opportunity to consider them as ‘strategic’.
- (d) Mr Davey has not provided any assessment of why these particular objectives are more strategic or more important than others. I do not intend to conduct such an analysis myself but note that as a starting point there are numerous section 6 matters that are not included in Mr Davey’s “Strategic Objectives”.
- (e) As per the Standards, the inclusion of objectives that respond to key strategic matters is discretionary, but if they are to be included within the PWDP they must be included within the Strategic Direction Chapter of the Plan. Similarly, issues (if any) must also be included within this section of the PWDP and linked to the strategic objectives. It is unclear whether the “strategic” objectives proposed by Mr Davey are responding to issues identified elsewhere in the PWDP or in fact any significant resource management matters as required by the Standards. Mr Davey appears to have elevated some issues/ outcome statements above others in a similar manner to how the objectives that follow have been addressed. To add to the lack of clarity in Mr Davey’s proposed provisions, these outcomes statements under the heading Strategic Direction) are expressed as a “vision” for the District. Again, his rationale for this approach has not been set out and submitters have not been provided the opportunity to consider this hierarchy of matters, issues and objectives or in fact the vision for the District.
- (f) I do not agree with Mr Davey in how he interprets what ‘strategic objectives’ are. From my reading of his interpretation, I consider a more appropriate term is ‘district wide’ objectives which is also in line with the directions of the Standards. This term ensures that the provisions, rightly, apply across a number of different environments but are not necessarily more important than other policies (for example, policies about section 6 matters).
- (g) I do not agree with Mr Davey’s interpretation of Clause 7.1(c) of the Standards. Clause 7.1(c) provides for policies to be included

elsewhere¹² if they are better located in another, more specific chapter. The Standards therefore do provide for policies to be included in the Strategic Direction chapter. If the Panel consider it inappropriate to include policies within the Strategic Direction chapter, then I would recommend at the very least including clear linkages between the policies intended to give effect to the objectives relating to the strategic direction.

- (h) I consider it to be good planning practice to include objectives and their subsequent policies in the same Chapter to provide for ease of use and to clearly demonstrate the cascade approach and interrelationship of objectives and policies. However, I acknowledge that clause 7.1(c) of the Standard provides flexibility to WDC when considering the location of policies. This determination will need to be done on a policy by policy basis when amending the Plan to give effect to the Standards.

Future Proof Implementation Committee

3.7 In addition to the points identified above at Paragraph 3.1, Mr Tremaine also notes that there are strategic objectives and policies in other chapters which could be moved into this Chapter so that the strategic overview for the PWDP is in one place.¹³

3.8 In relation to the points raised by Mr Tremaine:

- (a) I agree with Mr Tremaine insofar that there should be a separate chapter for 'district wide' objectives (in line with the directions of the Standards) which is reflected in paragraph 7.2 of my primary evidence;
- (b) I do not support the current content of Chapter 1.12 because as discussed in paragraphs 6.6 – 6.7 of my primary evidence, I consider that the Strategic Direction section of the PWDP requires significant redrafting before it should be considered fit for purpose.

¹² Clause 7.1(c) of the Standards states *"If the following matters are addressed, they must be located under the Strategic direction heading... c. policies that address these matters, unless those policies are better located in other more specific chapter"*.

¹³ Paragraph 7.2 of the statement of evidence of Ken Tremaine for Future Proof Implementation Committee, 14 October 2019.

- (c) For the reasons discussed in paragraph 7.3 of my primary evidence, I do not believe that the “strategic” objectives and policies in other chapters be moved into one Chapter because I do not support the use of the term “strategic” and am concerned about how it has been proposed to be applied.

Waikato Regional Council

- 3.9 As set out above at Paragraph 3.1, Ms Foley supports the recommendations of the s42A Reporting Officer in relation to Waikato Regional Council’s (**WRC**) original submission points seeking to clarify the purpose of Chapter 1.12 including:
- (a) Clarify strategic objectives and how the policies of each policy chapter link to the identified issues;
- (b) Clarify whether Chapters 1.12.2 – 1.12. 8 are strategic objectives or desired outcomes, rewrite if they are objectives and put into a separate Chapter.
- 3.10 I refer to my comments above in response to Mr Tremaine and my concern about the elevation of certain objectives above others. In my view, this is inappropriate.

Hamilton City Council

- 3.11 In addition to the points identified at Paragraph 3.1 above, Ms Morris also notes that the s42A Report does not consider or address the specifics of submission point 535.5,¹⁴ which seeks to strengthen Chapter 1.12.1 to help the reader better understand any particular geographical focus and what forms of development Council wishes to foster.¹⁵
- 3.12 I do not agree with Ms Morris that Chapter 1.12.1 be strengthened because I consider this Chapter to be unnecessary and should be deleted in full (for the reasons set out in my primary evidence).¹⁶
- 3.13 I also do not agree that the strategic directions Chapter should be a subset of Chapter 1. In my view, Strategic Directions (if any) should be contained within Chapter 2 which should be headed “district wide

¹⁴ Paragraph 27 of statement of evidence of Alice Morris for Hamilton City Council, 15 October 2019.

¹⁵ Submission point 535.5 within Summary of Submissions Document for the PWDP.

¹⁶ Paragraph 6.7(a) of statement of primary evidence of Chris Scrafton for TaTa Valley Ltd, 15 October 2019.

matters”.¹⁷ I also do not agree that the strategic directions should be separated from ‘district wide’ (not ‘strategic’) objectives. My view is that this is inconsistent with the structure set out in the directions of the Standards.

4. HORTICULTURE NEW ZEALAND

- 4.1 Ms Wharfe in her primary evidence for Horticulture New Zealand¹⁸ discusses the proposed National Policy Statement for Highly Productive Land (**PNPS: HPL**) which was released publicly for feedback following the close of submissions and further submissions and notes that section 55 of the RMA sets out the requirements of the Waikato District Council (**WDC**) to update the district plan once the National Policy Statement is gazetted.¹⁹
- 4.2 Ms Wharfe then states that the Waikato District has a considerable area of highly productive land and as such the PNPS: HPL could have a significant effect on the PWDP.²⁰ As such WDC should be cognisant of provisions in the PNPS: HPL when responding to submissions and this may reduce the changes required at a later stage.
- 4.3 My understanding is that a draft National Policy Statement has no legal weight and as such, Council do not need to be “cognisant” of it through this plan review process.
- 4.4 Whilst I acknowledge the intent of Ms Wharfe’s evidence, in my opinion, given the status of the PNPS: HPL it is not appropriate to have regard to or be cognisant of its provisions at this time and in any event, under section 55 of the RMA, once gazetted, the NPS:HPL will set out the process to be followed for how the District Plan will give effect to the NPS (ie first schedule RMA process or not).

CHRISTOPHER JAMES SCRAFTON

Dated: 22 October 2019

¹⁷ Paragraph 7.2 of statement of primary evidence of Chris Scrafton for TaTa Valley Ltd, 15 October 2019.

¹⁸ Statement of evidence by Lynette Pearl Wharfe for Horticulture New Zealand, 15 October 2019.

¹⁹ Paragraphs 5.6 – 5.7.

²⁰ Paragraph 5.8.