STATEMENT OF EVIDENCE

In the matter of	the Resource Management Act 1991
And	a submission and further submissions on Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchments (PPC1)
Submitter's Name:	Hamilton City Council
Submission Number:	74051
Hearing Topic:	**Part B – Outcomes: Objectives**
Type of Evidence:	Primary
Witness:	Paul Stanley Ryan
Date:	15 February 2019

Summary statement

1. This evidence addresses the s.42A Report's recommendations that:

   (1) Objective 3 be amended; and
   (2) The reasons for adopting Objective 3 be deleted.

2. The s.42A Report's recommended amendments to Objective 3 are broadly in line with those that HCC sought in its submission.

3. However, HCC did not seek for the reasons for adopting Objective 3 to be deleted. Such deletion would remove recognition that:

   (1) There is a lag between taking actions to manage contaminants and the water quality in the receiving water improving; and

   (2) Further action to improve the quality of existing consented point source discharges will not be required until those consents are renewed.

4. The loss of these recognitions could result in existing consented point-source discharges being required to be modified before these consents expire. This outcome was not intended by the Collaborative Stakeholder Group or the notified version of the PPC1.

5. This evidence supports deletion of the reasons for adopting each objective but seeks further amendments to Objective 3 to incorporate in it the elements that would otherwise be lost.

Personal statements

6. My full name is Paul Stanley Ryan. Please refer to my Primary Evidence on "Part B – Outcomes: Overall direction and whole plan submissions" for my:

   (1) Qualifications and experience;

(2) Endorsement of the content of HCC's submissions and further submissions, except where stated otherwise in my evidence;
(3) Agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014; and
(4) Reserved position with respect to the relief my Block 1 evidence seeks.

Abbreviations

7. Abbreviations and terms used in my evidence are explained in **Attachment A.**

Version of PPC1 quoted in this evidence

8. In this evidence references to page numbers in PPC1 are to the page numbering in the following version:

> *Supporting Document Incorporating Variation 1 Amendments to Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchments (Waikato Regional Council, 2018).*

9. References in this evidence to PPC1 provisions are references to the provisions recommended in the s.42A Report, unless stated otherwise.

Scope of evidence

10. My evidence focuses primarily on the relief sought in HCC's Submission.

11. It includes:

(1) A summary statement (above);

(2) Discussion of problems that could arise for holders of existing point source discharge consents because of amendments to Objective 3 and deletion of reasons for adopting Objective 3, which are recommended in the s.42A Report.

(3) Further amendments sought to Objective 3 to avoid these problems.

Objective 3 and reasons for adopting Objective 3

HCC's submissions

12. HCC's submission (PC1-10211, pp12-13) sought the following amendments to Objective 3 as notified:

> ~~*Actions put in place and implemented by 2026 to reduce discharges of nitrogen, phosphorus, sediment and* **microbial pathogens**~~*, are* *Changes to water management and land use* *sufficient to achieve*, *eventually,* ~~*ten percent of the required change between current water quality and the 80-year water quality attribute^ targets^ in Table 3.11-1. A ten percent change towards the long term water quality improvements is indicated by*~~ *the short term water quality attribute^ targets^ in Table 3.11-1*

13. A clean version of the above amended objective is:

> *Changes to water management and land use sufficient to achieve, eventually, the short term water quality attribute^ targets^ in Table 3.11-1 are implemented by 2026.*

14. HCC sought these changes to:

    (1) Improve clarity that the objective is to achieve by 2026 the necessary changes to water management and land use, but not necessarily the short-term water quality in Table 3.11-1; and
    (2) Simplify the objective without diminishing its effect.

15. HCC's submission (PC1-10248, pp12-13)) sought the following amendments to 3.11.2 Reasons for adopting Objective 3 as notified:

> *Point source discharges are currently managed through existing resource consents, and further action required to improve the quality of these discharges will occur on a case-by-case basis ~~at~~ following the time of consent renewal, guided by the targets and limits set in Objective 1 and recognising the need for a staged approach and application of the best practicable option.*

16. HCC sought these changes to:

    (1) Clarify that the water quality listed in Table 3.11-1 is not necessarily expected to be met from the day a renewed point source discharge consent comes into effect; and
    (2) Recognise PPC1 provides for a staged approach and use of the best practicable option and offset measures.

Officers' recommendations

17. The s.42A Report recommends (paragraph 400) the following amendments to Objective 3:

> ***Objective 3: ~~Short-term improvements in water quality in the first stage of restoration and protection of water quality for each sub-catchment and Freshwater Management Unit/Te Whāinga 3: Ngā whakapainga taupoto o te kounga wai i te wāhanga tuatahi o te whakaoranga me te tiakanga o te kounga wai i ia riu kōawāwa me te Wae Whakahaere Wai Māori~~***
>
> *Actions put in place and implemented by 2026 to reduce diffuse and point source discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve the short-term water quality attribute states in Table 3.11-1. ~~ten percent of the required change between current water quality and the 80-year water quality attribute targets in Table 3.11-1. A ten percent change towards the long term water quality improvements is indicated by the short term water quality attribute targets in Table 3.11-1.~~*

18. A clean version of the above amended objective is:

> ***Objective 3***
>
> *Actions put in place and implemented by 2026 to reduce diffuse and point source discharges of nitrogen, phosphorus, sediment and microbial*

> *pathogens, are sufficient to achieve the short-term water quality attribute states in Table 3.11-1.*

19. The Officers recommended (paragraph 400) the total deletion of the Reasons for adopting Objective 3, that is:

> ~~***Reasons for adopting Objective 3***~~
>
> ~~***Objective 3*** *sets short term goals for a 10-year period, to show the first step toward full achievement of water quality consistent with the Vision and Strategy.*~~
>
> ~~*The effort required to make the first step may not be fully reflected in water quality improvements that are measureable in the water in 10 years. For this reason, the achievement of the objective will rely on measurement and monitoring of actions taken on the land to reduce pressures on water quality.*~~
>
> ~~*Point source discharges are currently managed through existing resource consents, and further action required to improve the quality of these discharges will occur on a case-by-case basis at the time of consent renewal, guided by the targets and limits set in Objective 1.*~~

20. The Officers explain why they recommend deletion of the reasons for adopting each objective (paragraph 313):

> *While this approach[1] is consistent with the style used in the remainder of the WRP, the inclusion of reasons for the objectives is not a mandatory requirement of Section 67(1) of the RMA. It is the Officers' position that the Principle Reasons for Adopting the Objectives be deleted and any key points from the Reasons should be extracted and included within the body of the objectives, so they better reflect best practice RMA plan drafting and to clarify the outcomes sought by PC1.*

Response to Officers' recommendations

21. I support the Officers' recommendation that the reasons for adopting each objective be deleted; an objective should be able to stand alone without need for explanation.

22. However, there is no explicit evidence in the s.42A report (paragraphs 391 to 399) that the Officers have applied their own criteria and considered whether any points from the Reasons for adopting Objective 3 should be included in Objective 3 itself.

23. Deleting Reasons for Objective 3, deletes two concepts that are not included within the body of the objective, namely, recognition that:

    (1) Effort required to achieve the first step may not be fully reflected in measurable water quality improvements within ten years; and
    (2) Further action to improve the quality of existing consented point source discharges will not be required until those consents are renewed.

24. An effect of the Officers' recommended amendments to Objective 3 and deletion of the reasons for adopting Objective 3 could be to require, indirectly, for existing consented point-source discharges to be modified by 2026, if necessary, to reduce

[1] Inclusion in the Regional Plan of reasons for adopting an objective

discharges of nitrogen, phosphorus, sediment and microbial pathogens to achieve the short-term water quality in Table 3.11-1.

25. Even though HCC's existing discharges are consented, there is scope under s.128 of the Act for the conditions of these to be reviewed, and under s.132 to be changed:

> ***128 Circumstances when consent conditions can be reviewed***
>
> *(1) A consent authority may, in accordance with section 129, serve notice on a consent holder of its intention to review the conditions of a resource consent—*
>
> *(b) in the case of a … discharge permit,* ***when a regional plan has been made operative which sets rules relating to … minimum standards of water quality*** *…, and in the regional council's opinion it is appropriate to review the conditions of the permit in order to enable the … standards set by the rule to be met; …* [emphasis added]
>
> ***132 Decisions on review of consent conditions***
>
> *(1) A consent authority may change the conditions of a resource consent (other than any condition as to the duration of the consent) on a review under section 128 if, and only if, 1 or more of the circumstances specified in that section applies.*

26. HCC's existing point-source discharge consents all include conditions that allow WRC to review and change the conditions of a consent.

27. HCC's comprehensive stormwater discharge consent has a condition providing for Waikato Regional Council to review the consent's conditions "to achieve consistency with any future changes to the Waikato Regional Council's Regional Plans or policies in regard to catchment management planning and stormwater management"[2].

28. Furthermore, HCC's wastewater discharge consent for the Pukete Wastewater Treatment Plant[3] has the following review condition, which could trigger Waikato Regional Council to review the consent conditions:

> ***Monitoring and Technology Review***
>
> *22. The consent holder shall submit to the Waikato Regional Council a Monitoring and Technology Review Report no later than 30 September 2009 and thereafter at three yearly intervals, for the duration of the consent.*
>
> *The scope of the assessment should address, but not limited to, the following: ….*
>
> *ii) An assessment of compliance/consistency with any relevant national, or* ***regional water quality policies, standards*** *or guidelines in effect at the time. ….* [Emphasis added].

[2] Condition 44(e) of Resource Consent 105279 (HCC reference D-881508)
[3] Resource Consent Number 1146474.01.02

29. I note at paragraph 646 of the s.42A report (p.124) the Officers make the following comments about the review of conditions against new standards or limits in a plan:

> *Officers are aware this often results in a costly and resource intensive process. …. As the RMA includes a discretion to review resource consents following a plan process, Officers do not support the inclusion of fixed timeframes compelling the Council to undertake reviews or expectations that this will occur.*

30. The Collaborative Stakeholder Group and the notified version of PPC1 did not intend to require existing consented point-source discharges to be upgraded by 2026 to achieve the short-term water quality in Table 3.11.1.

31. Other PPC1 provisions corroborate this, for example:

(1) The sixth paragraph under the heading "Full achievement of the Vision and Strategy will be intergenerational" includes (p.19):

> *Municipal and industrial point source dischargers will also be required to revise their discharges in light of the Vision and Strategy and the water quality objectives, and sub-catchment limits^ and targets^ that have been set.* ***This will happen as the current consent terms expire****.* [Emphasis added].

(2) Under the heading "Reviewing progress towards achieving the Vision and Strategy" (p.20) it states:

> *The overall intent of Chapter 3.11 is to require resource users to make a start on reducing discharges of contaminants as the first stage of achieving the Vision and Strategy, with on-farm actions carried out* ***and point source discharges reviewed as existing resource consents come up for renewal****.* [Emphasis added].

32. The effect of the Officers' recommended amendments to Objective 3 and deletion of the reasons for adopting Objective 3 represents a significant departure from the approach of the notified version of PPC1.

33. A significant departure of this type is inconsistent with the Officers' approach to other submissions. For example, at paragraph 435 of the s.42A report they state:

> *The Officers do not consider it appropriate to adopt the request by various submitters …,* ***as it is a significant departure from the content and intent of this Objective****.* [Emphasis added].

34. In my opinion, the following words within Objective 3, "*put in place and implemented*", should be replaced with "*taken*". This would be more appropriate as "*actions*" are "*taken*", not "*put in place and implemented*".

35. This amendment expresses the objective more succinctly and does not change its intent.

36. I rely on the part of HCC's submission that sought "*any other similar, alternative or consequential relief*" for scope for this amendment.

37. Taking the above into account, it is my opinion that Objective 3, as recommended in the s.42A Report, should be further amended as follows:

> *Actions ~~put in place and implemented~~ taken by 2026 to reduce diffuse and unconsented point source discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve the short-term water quality attribute states in Table 3.11-1, while recognising that, because there is a lag between taking the actions and the receiving water quality improving, the short-term water quality attribute states in Table 3.11-1 may not necessarily be achieved by 2026.*

38. A clean version of this is:

> *Actions taken by 2026 to reduce diffuse and unconsented point source discharges of nitrogen, phosphorus, sediment and microbial pathogens are sufficient to achieve the short-term water quality attribute states in Table 3.11-1, while recognising that, because there is a lag between taking the actions and the receiving water quality improving, the short-term water quality attribute states in Table 3.11-1 may not necessarily be achieved by 2026.*

Paul S Ryan

HCC reference: D-2884199

Attachments

Attachment A: Abbreviations and Glossary
Attachment B: References
Attachment C: Relief Sought

Attachment A

Abreviations and Glossary

HCC	Hamilton City Council
PPC1	*Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchments*
RMA	Resource Management Act 1991
s.42A Report	*Section 42A Report: Proposed Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments: Part A: Overview and Context. Part B: Overall Direction, Values and Uses, Science and Economics, Objectives, Limits and Targets.* Prepared for Waikato Regional Council by Matthew McCallum-Clark, Angela Fenemore, Adele Dawson (Incite) and Naomi Crawford and Alana Mako (Waikato Regional Council). (21 December 2018). Document # 13383130.
WRP	Waikato Regional Plan

Attachment B

References

Hamilton City Council. (2 March 2017). Submission by Hamilton City Council on Proposed Waikato Regional Plan Change 1 – Waikato and Waipā Catchments.[4]

Waikato Regional Council. (21 December 2018). *Section 42A Report: Proposed Waikato Regional Plan Change 1 - Waikato and Waipā River Catchments: Part A: Overview and Context. Part B: Overall Direction, Values and Uses, Science and Economics, Objectives, Limits and Targets.* Prepared for Waikato Regional Council by Matthew McCallum-Clark, Angela Fenemore, Adele Dawson (Incite) and Naomi Crawford and Alana Mako. Document # 13383130[5].

Waikato Regional Council. (2016). *Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchments.*

Waikato Regional Council. (2018). *Supporting Document Incorporating Variation 1 Amendments to Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchments. Waikato Regional Council Policy Series 2018/05*[6].

Waikato Regional Council. (2019). *Proposed Waikato Regional Plan Change 1 – Waikato and Waipā: Officer's "Tracked Changes" Version: Hearing Block 1 Recommendations Only.* Document # 13362402.[7]

[4] HCC reference: D-2361677
[5] HCC reference: D-2862685
[6] HCC reference: D-2872745
[7] HCC reference: D-2867253

Attachment C

Relief Sought

Introduction

39. For clarity, the text which follows reflects any Variation 1 amendments and the Officers' recommended amendments, and the relief sought is shown in tracked changes as follows:

- Additions: underlined; and
- Deletions: ~~strikethrough~~.

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Relief Sought

40. Amendments to 3.11.2 Objectives:

> *Objective 3*
>
> *Actions ~~put in place and implemented~~ taken by 2026 to reduce diffuse and unconsented point source discharges of nitrogen, phosphorus, sediment and microbial pathogens, are sufficient to achieve the short-term water quality attribute states in Table 3.11-1, while recognising that, because there is a lag between taking the actions and the receiving water quality improving, the short-term water quality attribute states in Table 3.11-1 may not necessarily be achieved by 2026.*

41. A clean version of this is:

> *Objective 3*
>
> *Actions taken by 2026 to reduce diffuse and unconsented point source discharges of nitrogen, phosphorus, sediment and microbial pathogens are sufficient to achieve the short-term water quality attribute states in Table 3.11-1, while recognising that, because there is a lag between taking the actions and the receiving water quality improving, the short-term water quality attribute states in Table 3.11-1 may not necessarily be achieved by 2026.*

42. This relief relies on the following submission points for the scope of these changes:

(1) HCC: 74051-PC1-10211;
(2) HCC: 74051-PC1-10248;
(3) The part of HCC's submission that sought "*any other similar, alternative or consequential relief*".