

Your submission to Watercare Waikato River Water Take Application

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Reference no: 45

Clause

What are you submitting on? You can submit on specific parts of the application or the application as a whole.

Position

The whole Watercare application

Notes

Clause

My submission on the Watercare application is that (please select one):

Position

I oppose it (or specific parts of it)

Notes

Clause

The reasons for my view are:

Notes

Refer to Attachment 1

Clause

I seek the following decision from the Board of Inquiry:

Position

Decline the application

Notes

Clause

The reasons for my view and/or any amendments sought are (please specify precise details, including the general nature of any conditions sought):

Notes

Refer to Attachment 1

Clause

Do you wish to be heard in support of your submission? All submissions will be considered by the Board of Inquiry, but please indicate if you wish to be heard in support of your submission.

Position

I wish to be heard in support of my submission

Notes

Clause

Please indicate your choice(s) below. If you do not indicate your intention to call experts, you can change your mind later and decide to call experts to give evidence in relation to your submission, provided you do so in time to meet any procedural direction the Board of Inquiry might make.

Position 1

I intend to call an expert witness

Position 2

If others make a similar submission I would consider presenting a joint case

Notes

Clause

Are you a trade competitor?

Position

No, I am not a trade competitor

Notes

Supporting documents from your Submission

Attachment_1_to_Waipā_DC_submission.pdf

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ATTACHMENT 1

SUBMISSION ON WATER TAKE AND DISCHARGE APPLICATION BY WATERCARE SERVICES LIMITED

INTRODUCTION

1. Waipa District Council (**Waipa DC**) welcomes the opportunity to submit on Watercare Services Limited's (**Watercare**) water take and discharge application lodged with Waikato Regional Council (**WRC**) in December 2013, subsequently updated and lodged with the Environmental Protection Authority (**EPA**) on 11 December 2020 (**Application**) for determination through a Board of Inquiry (**BOI**).
2. The Application seeks all necessary resource consents to authorise the taking of an additional 150,000m³/day (net) of water from the Waikato River at a maximum cumulative take of 300,000m³/day (net), a new water intake structure, and discharges from a new water treatment plant. The Application states that the additional take is the only option available that would ensure security of supply during a drought between 2025-2027 and meet predicted water supply demand by 2028.
3. The Application has potentially significant impacts on Waipa DC's own municipal water take requirements over the medium to longer-term. In the timeframe available to lodge a submission in this BOI process, those impacts are not yet fully understood. For that reason, Waipa DC cannot support the Application at this time. Accordingly, this submission records Waipa DC's position as one of opposition to the Application in its entirety. However, subject to a series of issues being resolved to its satisfaction during the BOI process, Waipa DC's position in respect of the Application may become neutral or supportive.
4. Waipa DC is responsible for supplying water to the 56,200 residents of the Waipa district (**district**). Waipa DC's main water source is the Waikato River and its tributaries. As provider of the municipal water supply in the district, Waipa DC has a strong interest in the Application. It has serious concerns about how the Application might affect its own ability to accommodate the projected population growth of the district through the next 50 or so years.
5. The demand projections indicate that Waipa DC's existing water take consent, which expires in 2049, will be insufficient to accommodate the level of growth projected beyond that date and that Waipa DC will require an additional allocation from the Waikato River to meet demand in the medium to long term beyond 2049. Waipa DC's principal concern is that, if granted, the Application will result in an over-allocation of water from the Waikato River, hindering Waipa DC's ability to obtain a renewed consent for the additional water it will need. This will frustrate growth, and adversely impact both the Waipa community, and the wider Region, which in turn impacts the national interests.
6. The interrelationship between the Waikato and Auckland's interests is not addressed in the Application. Waipa DC recognises the importance of Auckland, its role in the national economy, and the need to secure a medium- and long-term water supply to service the Auckland community. However, this should not come at a cost to the Waikato communities,

who have always relied on the Waikato River as a life-sustaining resource. Waipa DC considers that any further allocation of water for Auckland must consider and account for and serve the best interests of both the Waikato and Auckland. Waipa DC needs an assurance that the Application will not frustrate its ability to access sufficient water from the River to enable planned growth to occur. Associated with this central concern are the following issues for which Waipa DC seeks satisfactory resolution:

- a) Demonstrable alignment between the Application and the relevant statutory documents and, in particular, the Vision and Strategy/Te Ture Whaimana o Te Awa o Waikato (**Te Ture Whaimana**), which seeks to prioritise Waikato River iwi and the Waikato communities' interests;
 - b) The impact of the proposal on the allocable flow of the river and where it leaves the resource in the short-, medium- and long-term;
 - c) Watercare's commitment to reducing its overall reliance on the Waikato River and providing certainty around that;
 - d) The duration of any consent and relinquishment of renewal rights so that the resource may be 'reallocated' after Auckland's immediate and medium-term needs are met;
 - e) Full analysis of the economic impacts of the Application on the Waikato and its communities, including recognition of the interrelationship between the Auckland and Waikato economies; and
 - f) Addressing the current status of the 'queue' of consent applications and how municipal water takes can be prioritised in light of the community economic and social wellbeing which a district like Waipa provides for people.
7. Waipa DC recognises that not all of these issues can be resolved by Watercare alone. Accordingly, Waipa DC welcomes further engagement with Watercare, Waikato-Tainui, Hamilton City and Waikato Regional Council on these issues prior to any hearing of the Application.

BACKGROUND – WAIPA DISTRICT

8. The Waipa District has a population of 56,200 people. The district is predominantly rural, extending over 1473.47 km². Its two principal population centres are Cambridge (20,500) and Te Awamutu (13,100). The Waipa 2050 Growth Strategy (**Waipa 2050**) aims to ensure that the district remains a great place to live, work and play, well into the future. Waipa 2050 projects that by 2050 the district will be home to an additional 25,000 people beyond those resident as at 2018.

National context

9. The importance of the district in the broader national context has been recognised through the creation of the Future Proof Urban Growth Partnership, which is a collaboration between all local councils in the Waikato Region, and also with the Crown and Iwi. The Future Proof

Partnership was created on 15 August 2019 and also includes representatives from Auckland Council, Franklin Local Board, and Auckland/Hauraki Iwi to reflect the Crown's commitment to the Hamilton to Auckland Corridor Plan (**H2A Plan**) that was completed in 2019. Since the reconstitution of that partnership, the focus of effort has been on implementing H2A, with emphasis on developing a Hamilton-Waikato Metropolitan Spatial Plan (**MSP**) and a Waikato Sub-Regional Three Waters Project. Waipa DC has reviewed the submission lodged on behalf of Hamilton City Council (**HCC submission**). The HCC submission provides a detailed overview of the H2A Plan, the H2A corridor and the MSP. This submission for Waipa DC adopts and relies on that detailed overview, noting the following aspects which are particularly relevant to Waipa DC.

Hamilton to Auckland Corridor Plan (H2A)

10. It is important to note that despite its title the H2A corridor extends south of Hamilton City, into Cambridge to the south east along SH1, and into Te Awamutu to the south west along SH3. Accordingly, these population centres within the district are key components of the overall H2A corridor.

Hamilton-Waikato Metropolitan Spatial Plan (MSP)

11. The MSP is the first joint spatial plan for the Hamilton-Waikato Metropolitan area (**metro area**) prepared by iwi, the Crown, and local government partners under the Future Proof Partnership. The metro area extends from Taupiri in the north to Te Awamutu and Cambridge in the south. The MSP takes a longer view of growth in this metropolitan area and plans for a future scenario in which 500,000 people reside. The growth projections identified in Waipa 2050 are incorporated within the MSP.

Waipa DC's growth obligations

12. Under the National Policy Statement on Urban Development 2020 (**NPS-UD**), Waipa DC is deemed a Tier 1 local authority and sits within the Tier 1 urban environment of Hamilton. In addition to the requirements placed on Hamilton to make provision for 31,900 homes by 2048, the NPS-UD requires that Waipa DC make provision for 13,900 homes by 2048.
13. The NPS-UD also requires Waipa DC to provide enough business land for the retail, commercial, and industrial sectors. The 2017 housing and business capacity assessment report found that an additional 189,000m² of retail and 650,000m² of industrial gross floor area would be required by 2048.

Growth in the Metro Spatial Plan (MSP) context

14. The projected growth identified within the broad geographic area of the MSP extends to 500,000 people over the medium to long-term (within the next 30 to 100 years).

15. Access to water is critical to this growth. This submission addresses not only Waipa DC's concern for its own water demand, but also the demand associated with the MSP growth projections. All local authorities within the MSP area which may be affected by Three Waters reforms in the future. In the event that a new and separate waters entity is created in the future, access to potable water will not only be required to service growth within the district territorial boundary, but also beyond that boundary to the full extent of the MSP area.

WATER SUPPLY IN WAIPA

16. In 2018, WRC granted Waipa DC a 30-year consent to extract water from three points within the Waikato River (**Waipa consent**). The Waipa consent expires in 2049. Waipa DC has invested \$36M in infrastructure to support water supply to Te Awamutu which allows the current take from the Mangauika Stream (consent reduces to 4mld from 14mld in 2030) to be reduced and allow the return of that stream to a more natural ecological environment, which places greater reliance on the Waikato River.
17. The Waipa consent enables a total combined daily net take volume which, subject to seasonal restrictions, must not exceed 45,286m³ per day. During the low demand season of May through July this amount must not exceed 33,500 m³ per day, and between January through April, and August through December, this amount must not exceed 41,000 m³ per day.
18. Waipa DC peak water abstraction stands at 28,088 m³ per day. Its current peak abstraction for 2019-20 stands at 22,366 m³ per day. Current average daily extraction is 14,948m³ per day.
19. Waipa DC has invested heavily in the last four years to implement universal metering across our connected communities. These have contributed to an overall reduction in water demand per household, demonstrating Waipa's commitment to ensuring that we are managing our scarce resources well. Waipa District and Hamilton City also have a shared services entity (Smart Water) which is focussed on water demand management education within our communities.

WATER DEMAND PROJECTIONS

20. Based on current population projections, Waipa DC has sufficient water available under the Waipa consent to accommodate the projected growth in the district between now and 2049, when its current water take consent expires. However, it is clear that after 2049 a renewed consent will be required which will need to extend the allocation beyond 45,000m³ per day. Waipa DC has not yet modelled the likely water demand necessary to address growth projections out to 2061 and beyond, but it is estimated that the volume required will be in excess of the take authorised under the Waipa consent.
21. These figures highlight that Waipa DC has an interest in the ongoing allocation of water from the Waikato River. By allocating additional water to Watercare as sought, this may impact

Waipa DC's ability to obtain a renewed and extended water take consent as required to service the growing population.

22. Constraints on potable water resources will have a significant impact on economic growth in the wider Waikato Region, and on the wellbeing of those living in the MSP area. These economic considerations need to be factored into the economic analysis relating to the Application so that the interrelationship between the Auckland and Waikato economies is not ignored. The strategic significance of this relationship is so important to New Zealand that decisions on the efficient allocation of the water resources of the Waikato River must ensure that the allocation provides for the best overall outcome for both Auckland and the Waikato.
23. Waipa DC considers that these issues can be resolved in a way that serves both the Auckland and Waikato joint interests. Clearly Watercare has an immediate need for water in the short-term. Waipa DC's need for additional water allocation is likely to arise in the medium- to long-term. Accordingly, Waipa DC seeks a solution which sees the immediate needs of Auckland met, while preserving allocable flow for the medium to long-term to enable Waipa DC to meet its needs over this extended timeframe. For that reason, Waipa DC seeks specific relief in relation to the duration of consent if granted.
24. Linked to the matters identified above are a range of issues which are required to be addressed in order for Waipa DC's concerns to be met. Those issues are identified further below.

STATUTORY CONSIDERATIONS

25. The BOI's consideration of the Application will be guided by a range of statutory instruments. These are addressed briefly below.

National Policy Statement for Freshwater Management 2020 (NPS-FM)

26. Central to the NPS-FM is the concept of Te Mana o Te Wai, which is described as:

A concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

27. Te Mana o Te Wai encompasses six principles relating to the roles of tangata whenua and other New Zealanders. Aligned to these principles is a hierarchy of obligations, stated as Objective 2.1, that resources are to be managed in a way that prioritises:
 - a) First, the health and well-being of water bodies and freshwater ecosystems;
 - b) Second, the health needs of people (such as drinking water); and

- c) Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
28. The NPS-FM also requires freshwater to be allocated and used efficiently, and that over-allocation be avoided (Policies 11 and 15).
29. On the basis that the allocatable flows and minimum flow levels in the Waikato River have been established to achieve the first objective – that is they have been set at levels that protect the health, well-being and ecosystems of the River – priority for the management of resources must then turn to the allocation of water for the health needs of people.
30. While the Application seeks to provide for the drinking water needs of Auckland’s community in the short- to medium-term, Waipa DC is concerned to ensure that this is not at the expense of providing for the long-term drinking water needs of the wider Waikato communities. The current allocation regime for the Waikato River does not expressly include an allocation for the long-term water supply needs of communities – it is based on ‘a first in, first served’ approach.
31. We expect this to be addressed in future regional plan changes that give full effect to the NPS-FM. However, in the interim, Waipa DC considers it imperative that decisions on current applications, including that of Watercare and those others currently in the queue, do not result in the full allocation of the available resource without provision for Waipa DC’s future drinking water supply needs. To do so would be contrary to the hierarchy of priorities directed by the NPS-FM.

Te Ture Whaimana

32. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (**Settlement Act**) provides that the Waikato River and its contribution to New Zealand’s cultural, social, environmental, and economic wellbeing are of national importance¹. Embedded within the Settlement Act is Te Ture Whaimana, the primary direction-setting document for the restoration and protection of the Waikato River. The Environment Court has held that Te Ture Whaimana “affects all decisions which may affect the river or its catchment”². Section 17(3) of the Settlement Act requires the BOI to have particular regard to Te Ture Whaimana in determining the Application. Section 12(1) of the Settlement Act states that the Vision and Strategy prevails over any inconsistent provision of a national policy statement.
33. Te Ture Whaimana’s objectives include:
- a) The restoration and protection of the health and wellbeing of the Waikato River (Objective a);
 - b) The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships (Objective b);

¹ Settlement Act, s 9.

² *Puke Coal Limited v Waikato Regional Council & Ors* [2014] NZEnvC 223 at [89].

- c) The restoration and protection of the relationship of Waikato River iwi according to their tikanga and kawa, with the Waikato River, including their economic, social, cultural and spiritual relationships (Objective c).
 - d) The restoration and protection of the relationship of the Waikato region's communities with the Waikato River including their economic, social, cultural and spiritual relationships (Objective d).
 - e) The integrated, holistic, and coordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River (Objective e).
 - f) The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing requires the restoration and protection of the health and wellbeing of the Waikato River (Objective j).
34. There is clearly special recognition in Te Ture Whaimana of the integral role and function of the Waikato River within the communities, and for iwi, of the Waikato and their important relationship with it. Given this acknowledgment and direction by Parliament, and the primacy of Te Ture Whaimana in the BOI's determination of the Application³, substantial regard must be given to ensuring that the Waikato River is managed in the interests of the river itself and to restore and protect the relationship and reliance that Waikato iwi and communities that have with it. That is, the future social, cultural, and economic aspirations of Waikato iwi and communities, should not be inappropriately curtailed or compromised through the granting of the Watercare application.

Waikato Regional Planning Framework

35. The Waikato Regional Policy Statement (**RPS**) and Waikato Regional Plan (**WRP**) also explicitly recognise and provide for the allocation of water to meet the reasonably foreseeable and justified needs of municipal supply, together with industry and primary production.
36. Objective 3.2 of the RPS directs the recognition and provision of sustainable resource use and development and its benefit to enable people and communities to provide for their economic, social, and cultural wellbeing. This includes by maintaining and enhancing:
- a) Access to natural resources to provide for regionally significant industry and primary production supporting that industry; and
 - b) The availability of water for municipal and domestic supply to people and communities.
37. RPS Policy 8.6(c) also requires management of the increasing demand and competition for water through the setting of allocation limits, efficient allocation within those limits, and other regional plan mechanisms which achieve identified freshwater objectives and, amongst other

³ *Puke Coal Limited v Waikato Regional Council & Ors* [2014] NZEnvC 223 at [90].

matters, enable the existing and reasonably justified foreseeable domestic or municipal needs of people and communities to be met.

38. Objective 3.3.2 of the WRP seeks that water allocation and use is managed in a way that ensures:

- a) Giving effect to the overarching purpose of Te Ture Whaimana to restore and protect the health and wellbeing of the Waikato River for present and future generations.
- b) The availability of water to meet the existing and the reasonably justified and foreseeable future domestic or municipal supply requirements of individuals and communities and the reasonable needs for an individual's animal drinking water requirements.
- c) The recognition of the significant community benefits that derive from domestic or municipal supply takes.
- d) The efficient allocation and the efficient use of water.

39. Accordingly, the regional planning framework also clearly directs the allocation of water to provide for the reasonably justified and foreseeable future municipal supply requirements of communities. While the Application seeks to achieve this for the Auckland community, it risks doing so at the expense of the likely future requirements of Waikato's communities, including the potentially significant increase in demand from growth within the MSP area.

Summary of alignment with statutory provisions

40. The Application has indicated that there is sufficient water available to grant Watercare's existing take without causing any of the prior applications to exceed the allocable flow on the basis of 'first in, first served' in respect of the remaining available water under the established water allocation limit. Figure 2 of the Watercare application indicates that following the granting of its application and those that are before it in the queue, that the resource will be fully allocated in some months of the year.

41. However, this approach fails to recognise the relevant statutory framework including the NPS-FM, the RPS and the WRP – which direct the management of water resources in a way that prioritises the provision of water to meet the reasonably justified and foreseeable future municipal supply requirements of Waikato communities.

42. Further, Te Ture Whaimana directs that effect be given to ensuring that the Waikato River is managed in a holistic and integrated way that reflects the national importance of the Waikato River. Management of the river and its catchments must also be undertaken in a way that restores and protects not only the river itself, but also the relationship that Waikato iwi and communities have with it including to meet their social and economic needs. If all the remaining allocatable water is allocated to meeting Auckland's water supply needs, there is a

significant risk that the future growth, social, cultural, and economic aspirations of Waikato iwi and communities will not be met.

43. Accordingly, without amending the Application in line with the relief sought by Waipa DC or similar, the proposed activities are inconsistent with the relevant statutory framework and as a result, Part 2 and other provisions of the RMA, in that they:
- a) Do not promote the sustainable management of the natural and physical resources within the Waikato Region (s 5);
 - b) Do not meet the reasonably foreseeable needs of future generations (s 5), in particular the future water supply needs of Waikato communities;
 - c) Do not enable the social, economic and cultural wellbeing of the people of the Waikato Region (s 5);
 - d) Do not avoid, remedy or mitigate actual or potential adverse effects on the environment (s 5);
 - e) Do not recognise and provide for the following matters of national importance: the protection of the Waikato River from inappropriate use and development, and the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (s 6); and
 - f) Do not have regard to kaitiakitanga, the ethic of stewardship, the efficient use of the Waikato River and the finite characteristics of the Waikato River (s 7).

FURTHER ISSUES

Economic Assessment

44. The economic assessment in the Application is very limited in its scope. It focuses on meeting Auckland's needs in the medium-term in order to 'solve' the likely supply constraint that will arise in the mid-2030s. However, it fails to consider the wider implications of a shortfall of water supply for the Waikato community beyond 2044. The economic assessment in the Application is deficient in this regard. The issue is best demonstrated by Figure 1 below.

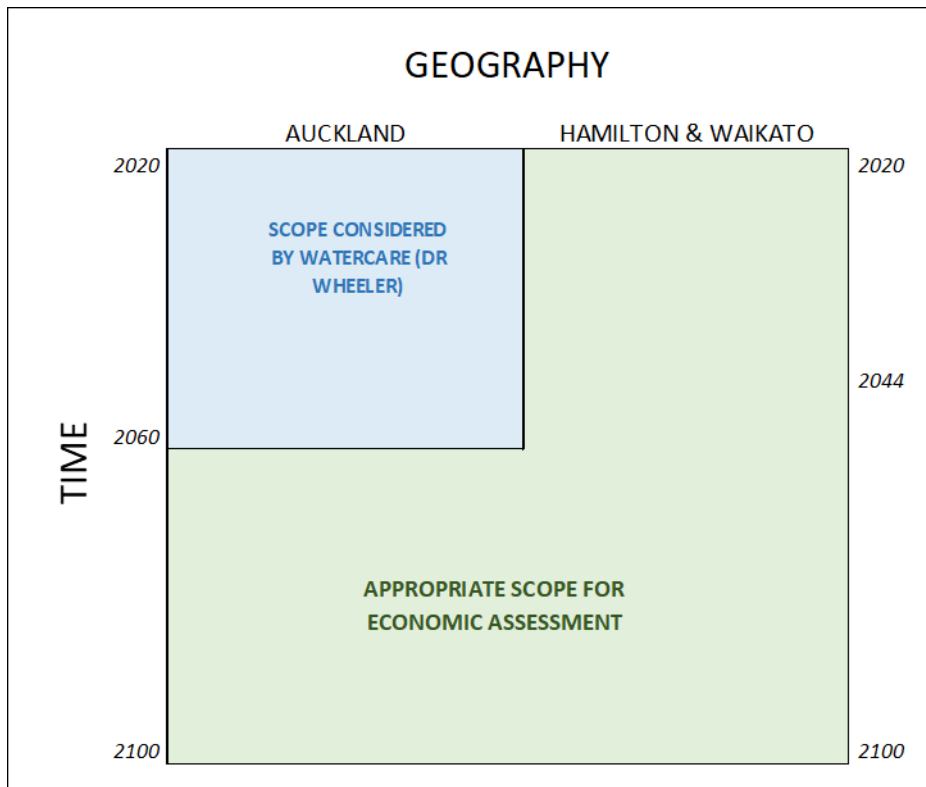


Figure 1 – Scope for assessing Waikato River water allocation

45. Water is essential to sustain the population and support economic activity. The Waikato River is the main water source for both Auckland and Waipa DC, and for much of the Waikato Region. That, and the existing allocations, define the appropriate geography for the economic assessment. It is not appropriate for the BOI to adopt any approach that excludes the Waikato and the identified potential opportunity cost, from its assessment.
46. Once population and economic activity are established, then that level of activity, and associated water consumption, is the assumed minimum going forward. Major cities like Auckland generate massive growth momentum. These factors mean that unless the issue is addressed within the consent conditions, short- to medium-term water allocations are also, due to renewal rights, the long-term or permanent allocations. Unless specifically provided for and understood by the consent holder, it is unrealistic to expect a wind-back of water allocation. Accordingly, for all practical purposes, unless properly addressed at the time the consent is granted, water allocation needs to be considered as a permanent outcome. However, that need not be the case if the consent recognises that an alternative source is being developed and there is a high degree of certainty about such alternatives, including their timing.
47. Any evaluation of the Waikato scenario must take into account the population growth and economic growth projections intended for the metro area.
48. Accordingly, it is critical that the BOI adopt a wider scope for the evaluation that both applies a longer time perspective and the wider geography of Auckland and the Waikato. Any allocation decision needs to be made with that wider geographic and timespan lens.

Watercare's reliance on the Waikato River long-term

49. Given the scale of Auckland, and its ongoing growth, water demand will continue to increase. The consideration and development of alternative water supply sources, such as desalination, to service this increased demand is necessary. Waipa DC considers that Watercare's reliance on the Waikato River for water supply should progressively decrease and its water then be reallocated.
50. The Application indicates that Watercare only intends to use the additional take 'as necessary'. It further indicates that alternative water supplies will be developed over time to meet projected demand in Auckland. Investment now in an (initially) more expensive alternative water supply option for Auckland may result in better overall community and economic outcomes for Auckland, Waikato, and the wider national economy. Based on its own high-level review, Waipa DC is concerned that some of Watercare's cost estimates for some of the large-scale alternative supply options are overestimated. Further analysis is required. For Waipa DC to support the Application, Watercare's development of alternative water supply sources by set deadlines must be embedded in the conditions of consent.
51. Further, in light of the potential shortfall in water supply, granting long term resource consents for water abstractions would lock in unsustainable water use. The large volume of water sought means that the full allocation may not be utilised for some time with the consequence that this water will not be available for allocation.
52. The Application indicates that Watercare is open to temporary water transfers to enable unneeded water to be utilised. However, as proposed, the terms and conditions by which such a transfer takes place will be determined by Watercare.
53. Waipa DC considers that these issues could be addressed, at least in part, by Watercare's consent being limited to a duration of 20 years, and with an 'Augiers' condition offered up by Watercare which relinquishes any s 124 (or equivalent) renewal rights.

RELIEF SOUGHT

54. That the Application be refused; or in the alternative,
55. That the Application be granted, subject to:
 - a) Imposing a consent term of 20 years;
 - b) Conditions requiring Watercare to report to WRC at regular periods during the term of the consent on implementation progress made towards securing alternative water sources identified in the Watercare application, so that it is reducing, over time, its reliance on the Waikato River to the extent that the renewal of the water take which is the subject of the Application is not required by Watercare;

- c) A comprehensive suite of monitoring, reporting and review conditions with “feedback loops” relating to water allocation, water demand management and monitoring effects on the Waikato River;
- d) Any such further conditions that assist to preserve the allocable flow of the Waikato River over the medium to long-term;
- e) A condition, offered up by Watercare, relinquishing any s 124 (or equivalent) renewal rights; or
 - I. A condition requiring Watercare to progressively reduce its take during the final years of the consent so that immediately upon expiry it is significantly less reliant on the take; and
 - II. A condition requiring Watercare to move to an “above median flow” take immediately before expiry; and
- f) Any such further conditions that address the issues identified in this submission and are necessary to achieve the purpose of sustainable management.
- g) Any such further similar relief as necessary to preserve the allocable flow of the Waikato River over the medium to long-term and as necessary to achieve the sustainable management of the water resources of the Waikato River for future generations.