



STRATEGIC POLICY PROFILE STATEMENT

WAIPA DISTRICT GROWTH STRATEGY

STRATEGIC POLICY PROFILE STATEMENT

25 SEPTEMBER 2008

We note that this profile statement is drafted as at 25 September 2008.

Developments that would be reflected in the document if drafted as at today's date (27 February 2009) include:

- The introduction of the Resource Management (Simplifying and Streamlining) Amendment Bill;
- The ETS review that is currently being undertaken;
- The gazettal of a new NES;
- Decisions having been made on EW Plan Change 6; and
- The introduction of settlement legislation regarding the Waikato-Tainui River Claim settlement.

2. INTRODUCTION

2.1 This strategic/policy profile statement is intended as a macro-level framework, focusing on legislative and policy issues which are likely to affect the Waipa District over the next 5 to 10 years. The purpose of this statement is to assist in formulating a "base case" for the District, to be used as a basis for developing growth options for evaluation as part of development of a Growth Management Strategy for the District to 2050 and as part of the initial development of issues for the District Plan Review.

2.2 To fulfil this purpose, the statement will provide an overarching summary of relevant strategies and policy, with a particular focus on:

- (a) international trends / issues influencing government strategic policy, including climate change, carbon neutrality, and energy efficiency;
- (b) upcoming regulatory changes, in particular anticipated/potential amendments to the Local Government Act 1974 and 2002 and the Resource Management Act 1991, together with the introduction of National Environmental Standards and National Policy Statements; and

- (c) relevant government policy directives, particularly with respect to transport, water, environment, local government restructuring, boundary adjustments, energy/climate change issues, regional planning documents and iwi issues.

2.3 It is noted that, because it is macro-level, this statement has a different context from that of the other individual statements prepared as part of the base case, each of which addresses more micro-level issues. It is also noted that the matters addressed in this statement will likely be relevant to, and have implications for, the issues addressed in each of the other specific statements.

3. CURRENT PROFILE/TRENDS – RELEVANT REGULATORY CONTEXT

Relevant legislation

Local Government Acts 1974 and 2002

- 3.1 The Waipa District is one of the 73 territorial authorities (including 4 unitary authorities that have functions of both regional and district councils) constituted as a result of the 1989 local government reorganisation.
- 3.2 In accordance with relevant regulatory provisions, territorial authorities' responsibilities include:
 - (a) community well-being and development;
 - (b) environmental health and safety (including building control, civil defence, and environmental health matters);
 - (c) infrastructure (roading and transport, sewerage, water/stormwater);
 - (d) recreation and culture; and
 - (e) resource management including land use planning and development control.
- 3.3 In general, all councils are required to make decisions and set directions for promoting the social, cultural, environmental and economic well-being of their communities. As such, these matters contribute to the good governance of their communities. In particular, section 10 of the Local Government Act 2002 provides that the purpose of local government is to:

- (a) enable democratic local decision-making and action by, and on behalf of, communities; and
 - (b) promote the social, economic, environmental and cultural well-being of communities, now and for the future.
- 3.4 Further, section 12(2) of the Act gives councils wide scope to do anything within the context of the purpose of local government.
- 3.5 In fulfilling this purpose and exercising these powers, the Act requires all councils to:
- (a) separate policy setting from operational functions as far as possible;
 - (b) prepare long-term council community plans (LTCCPs), annual plans and budgets in consultation with their communities;
 - (c) report annually on performance in relation to their plans; and
 - (d) prepare long-term financial strategies including funding, financial management and investment policies.
- 3.6 The Local Government Act 2002 also makes it clear that councils have a variety of other statutory responsibilities. These are mostly in other Acts such as the RMA, Building Act 2004, Biosecurity Act 1993, Civil Defence Emergency Management Act 2002, Sale of Liquor Act 1989, and Health Act 1956.
- Resource Management Act 1991*
- 3.7 The key environmental management statute in New Zealand is the Resource Management Act 1991 (RMA). The RMA is an effects-based framework, with the primary purpose of the Act (contained in section 5) being the promotion of the sustainable management of natural and physical resources. The RMA has been subject to several substantive amendments since first being enacted, in particular in 1993, 1997, 2003 and 2005.
- 3.8 Functions under the RMA are generally divided between central Government, regional councils, and territorial authorities (being city and district councils such as Waipa). In particular, territorial authorities are primarily responsible for controlling the effects of use, development and protection of land (including the surface of lakes and rivers). They also share responsibility with regional

councils for management of natural hazards and hazardous substances. Territorial authorities are also required to prepare district plans, which must give effect to a regional policy statement, and must not be inconsistent with the provisions in a regional plan. The current statutory planning documents affecting the Waipa District are outlined in more detail below.

Land Transport Management Act 2003

- 3.9 The Land Transport Management Act 2003 (*LTMA*) is the key statute governing how decisions on the management of land transport activities are made. It sets out the requirements and processes for local authorities to obtain funding for roading construction and maintenance. Its purpose is to contribute towards the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system.
- 3.10 The LTMA provides for the preparation of, and consultation on, Regional Land Transport Programmes which set out funding recommendations for land transport activities within the each region over a three year period. The LTMA also prescribes the operation of other mechanisms for funding roads such as establishing public sector tolling and entering into private/public sector partnerships.
- 3.11 The LTMA was substantially amended in August 2008. Those amendments include focusing land transport funding decisions at a regional level, the requirement that Government issue a Government Policy Statement on land transport funding and the establishment of the NZ Transport Agency.
- 3.12 Should Waipa District Council wish to obtain funding for specific transport activities or secure funding for a specific transport initiative by way of a public private partnership or a road tolling, it must do so through the Regional Land Transport Programme and in accordance with the LTMA.

Waste Minimisation Act 2008

- 3.13 The Waste Minimisation Act 2008 (*WMA*) comes into force on 1 July 2009 and represents a shift in the focus of council activities relating to waste. It preserves the obligations and powers of councils set out in the Local Government Act 1974 (such as the ability to set bylaws governing waste). However, the WMA now requires councils to focus on encouraging effective

and efficient waste management *and* minimisation, rather than simply waste management.

- 3.14 In this regard, the WMA requires councils to either review their existing waste management plan (by 1 July 2012), or prepare and adopt a new waste minimisation plan. Waste minimisation plans must then be reviewed every six years.
- 3.15 The plan must include objectives and policies for achieving effective and efficient waste management and minimisation, as well as specific methods for doing so. These methods are to include services for waste collection and treatment, the provision of waste facilities, as well as any educational or public awareness activities to be provided by council.
- 3.16 Before reviewing a waste management and minimisation plan, a council will be required to undertake a waste assessment. This must include a description of the waste services provided within a council's district, a forecast of future demands for such services, and a statement that any future proposals will promote effective and efficient waste management and minimisation.
- 3.17 To assist in funding these activities, councils will obtain an annual payment from the Secretary for the Environment collected from the Waste Levy imposed on every tonne of waste disposed of in landfills. The amount paid each year will be dependent on the amount of waste disposed of in landfills nationally, and the population living within the boundaries of the council. Councils will also have a particular interest in the development of regulations for priority products for product stewardship schemes and criteria for the contestable waste levy fund.

Relevant regulatory planning documents

National Environmental Standards

- 3.18 National Environmental Standards (*NES*) are regulations issued under sections 43 and 44 of the RMA. The form of the NES may vary, and can comprise numerical limits, narrative statements, or methodologies that are in a legally enforceable form.

- 3.19 Once an NES comes into force, every district, regional and city council must alter its relevant plan(s) to reflect the requirements contained in that NES, unless a stricter standard is already in place.
- 3.20 Resource consent hearings that are set down for a date following an NES coming into force must comply with the standards contained within the NES. Where a resource consent has been granted prior to the NES coming into force, the consent may be exercised without compliance with the standard, except in respect of water, discharge, and coastal consents.
- 3.21 At present, there are only two NES in force. These relate to air quality, and sources of human drinking water. However, a number of additional standards are also in development, and these can be expected to be adopted in the future.
- 3.22 Standards in development at time of writing include measurement of water takes; ecological flows and water levels; telecommunications facilities; and electricity transmission (where two standards are proposed: a transmission activities NES to set out a framework for managing effects of electricity transmission operation, maintenance and upgrade activities; and a transmission risks NES to address the issue of risks to the national grid from activities that could affect transmission lines).
- 3.23 A number of the NES in development form part of the Ministry for the Environment's 'Sustainable Water Programme of Action', a focus on developing policy instruments for freshwater management. We comment further on the Sustainable Water Programme of Action in paragraph 2.38 below.

National Policy Statements

- 3.24 National Policy Statements (NPS) are intended to state policies of national significance that are relevant to achieving the sustainable management purpose of the RMA. Regional Policy Statements and regional and district plans must not be inconsistent with a NPS.
- 3.25 NPS are developed in four stages: scoping, drafting, consultation and implementation. Generally reference groups are established with representatives from key stakeholders. These reference groups are then

required to report back to the Minister for the Environment following scoping and before consultation.

3.26 Section 45(2) of the RMA sets out the matters to which the Minister for the Environment must have regard to when considering whether it is desirable to develop a NPS. These include:

- (a) The actual or potential effects of the use, development, or protection of natural and physical resources;
- (b) New Zealand's interests and obligations in maintaining or enhancing aspects of the national or global environment;
- (c) Anything which affects or potentially affects any structure, feature, place, or area of national significance;
- (d) Anything which affects or potentially affects more than one region;
- (e) Anything concerning the actual or potential effects of the introduction or use of new technology or a process which may affect the environment;
- (f) Anything which, because of its scale or the nature or degree of change to a community or to natural and physical resources, may have an impact on, or is of significance to, New Zealand;
- (g) Anything which, because of its uniqueness, or the irreversibility or potential magnitude or risk of its actual or potential effects, is of significance to the environment of New Zealand;
- (h) Anything which is significant in terms of the Treaty of Waitangi;
- (i) The need to identify practices to implement the purpose of the RMA; and
- (j) Any other matter related to the purpose of a national policy statement.

3.27 There are currently two NPS in force; the New Zealand Coastal Policy Statement, and the National Policy Statement on Electricity Transmission. Of these, the NPS on Electricity Transmission is directly relevant to Waipa District, particularly in light of Transpower's proposed North Island Grid Upgrade Project (*NI GUP*).

- 3.28 The NI GUP involves construction of a new 400 kV electricity transmission line from Whakamaru to Otahuhu and Pakuranga. The proposed route passes through Waipa District. Transpower has lodged notices of requirement with relevant councils for the necessary designations, and a Board of Inquiry is presently conducting a public hearing on the proposal.
- 3.29 The NPS on Electricity Transmission gives guidance to local government, making it explicit that electricity transmission is a matter of national significance under the RMA. Of relevance to the NI GUP, the NPS provides that planning and development of the transmission system should:
- (a) Minimise adverse effects on urban amenity;
 - (b) Avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities; and
 - (c) Avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity.
- 3.30 Government has also recently released a proposed NPS for Renewable Electricity Generation. The proposed NPS recognises the national significance of the benefits of renewable generation, and is discussed in more detail at paragraph 3.7 below.

Regional Policy Statements

- 3.31 Each regional council must prepare a Regional Policy Statement, and review it every 10 years. The aim of Regional Policy Statements is to achieve the purpose of the RMA, by giving an overview of the regional resource management issues, and to establish policies that will help to achieve integrated management of the region's natural and physical resources. Regional Policy Statements are intended to be the core planning document prepared by regional councils, as all plans within the region must not be inconsistent with it. This means that the current and proposed Waipa District Plan must not be inconsistent with the Waikato Regional Policy Statement.
- 3.32 In accordance with sections 60 to 62 of the RMA, a Regional Policy Statement must be prepared with the regional council having regard to its functions (as provided in section 30 RMA), Part 2 of the RMA, its duty under section 32 RMA, any relevant regulations, and certain other matters.

Regional Plans

- 3.33 With the exception of regional coastal plans, there is no requirement that a regional council adopt regional plans. However, regional councils may develop such plans in order to assist the regional council in carrying out its functions, and to achieve the purpose of the RMA.
- 3.34 There is no uniform structure for regional plans, with different councils adopting different formats. For example, while some councils have separate air, water, and land management plans, others have begun to adopt consolidated plans that deal with all issues within the one plan.
- 3.35 Regardless of the structure that is chosen, the development of regional plans remains subject to the same requirements under sections 64 to 70 of the RMA. Regional councils must have regard for their purpose (as set out in section 30 RMA), the provisions of Part 2 RMA, and the duty under section 32 RMA to assess the effectiveness and efficiency of any provision intended to be included within the plan. Regional councils must also have regard to any relevant regulations that may apply.
- 3.36 Where regional plans are in place, district plans that are developed for the various districts within a region must not be inconsistent with any regional plan for matters of regional significance, or for situations in which the regional council has primary responsibility.

Waipa District Plan

- 3.37 Waipa's first District Plan under the RMA was notified on 31 March 1994, and became operative on 1 December 1997. Section 1.7 notes the significant resource management issues for the district as being:
- (a) rural land subdivision and development and the protection of prime agricultural land;
 - (b) landscape protection; and
 - (c) urban development.
- 3.38 As well as general, town centres, industrial and other specialised zones, the District Plan provides for residential, deferred residential and rural zones.

Relevant Recent Policy Initiatives

New Zealand Energy Strategy/New Zealand Energy Efficiency and Conservation Strategy

- 3.39 The Government, through the Ministry of Economic Development, has recently (October 2007) released the New Zealand Energy Strategy to 2050, entitled 'Powering our Future – Towards a Sustainable Low Emissions Energy System' (NZES). The New Zealand Energy Efficiency and Conservation Strategy, entitled 'Making It Happen – Action plan to maximise energy efficiency and renewable energy' (NZECS) was also released in October 2007. Together, these documents establish a policy framework for maintaining security of electricity supply and reducing greenhouse gas emissions while introducing initiatives that promote renewable energy, energy efficiency and sustainable energy practices.
- 3.40 One of the key actions contained in the NZES is the introduction of a target for 90 per cent of electricity to be generated from renewable sources by 2025 (based on an average hydrological year). To achieve this target, the NZES states (at page 22): "...a very high rate of investment in new renewable generation, lower utilisation of existing fossil fuels plant and decommissioning of older fossil fuel plant is required". It also notes (at page 79) that achieving the target will require market and regulatory structures to enable investment in a diverse range of renewable generation projects, including small-scale and distributed generation.
- 3.41 It is therefore clear that the long term government policy places considerable and clear emphasis on the commissioning of new renewable generation. The benefits of wind, geothermal, hydro and emerging types of electricity generation in terms of reduced greenhouse gas emissions and of New Zealand's Kyoto Protocol obligations are a significant feature in both the NZES and NZECS. In addition, the NZECS complements a number of other government strategies including the New Zealand Transport Strategy.
- 3.42 These government energy policies will have implications for land use planning in the Waipa District particularly in light of the draft NPS for Renewable Electricity Generation. Waipa District Council should be looking to introduce policy initiatives which promote energy efficiency and sustainable energy practices. These might include a wide range of topics, from making specific

provision for renewable electricity generation in district plans, to incentivising green buildings.

Sustainable Water Programme of Action

- 3.43 A combined action programme coordinated by the Ministry for the Environment and the Ministry for Agriculture and Forestry, the Sustainable Water Programme of Action represents a suite of actions that focus on improving the management of fresh water, protecting freshwater resources into the future, and acknowledging the fundamental importance of water to all New Zealanders.
- 3.44 The strategy focuses on three national outcomes:
- (a) Improving the quality and efficient use of fresh water by building and enhancing partnerships with local Government, industry, Māori, science agencies and providers and rural and urban communities;
 - (b) Improving the management of the undesirable effects of land use on water quality through increased national direction and partnerships with communities and resource users; and
 - (c) Providing for growing demands on water resources and encourage efficient water management through increased national direction, working with local government to identify options for supporting and enhancing local decision making, and developing best practice.
- 3.45 To achieve these national outcomes, and following extensive consultation, the Government has proposed a number of actions, including developing tools to assist regional councils with freshwater management, working with tangata whenua to enhance Maori participation in freshwater management, and drafting three national instruments. The latter are an NES for Measurement of Water Takes, an NES on Ecological Flows and Water Levels, and an NPS for Freshwater Management. These are individually addressed in paragraphs 3.10, 3.11 and 3.15 below.
- 3.46 Because Waipa District contains two major rivers, several large hydro lakes, and a number of smaller but ecologically significant peat lakes, the Sustainable Water Programme of Action will be significant in the management of those freshwater bodies particularly through surrounding land use.

Climate Change

3.47 The NZ Government has come up with a number of climate change policy initiatives in response to its international obligations under the Kyoto Protocol. We outline four of the main initiatives: Projects to Reduce Emissions, the Afforestation Grant Scheme, the Permanent Forest Sink Initiative, and the Climate Change (Emissions Trading and Renewable Preferences) Bill.

Projects to Reduce Emissions (PRE)

3.48 The PRE programme was launched in 2003 to support initiatives that will reduce greenhouse gas emissions. Projects include producing renewable energy by using natural resources, or turning waste into energy. The incentive for tendering for PRE was the provision of internationally tradable emissions units.

3.49 PREs must reduce emissions beyond business-as-usual reduction goals. This helps to bring forward projects that would not otherwise be economic. The greenhouse gas emissions reductions must occur over the first commitment period of the Kyoto Protocol.

3.50 There have been two trial projects and two contestable tender rounds – the first tender round in 2003 and the second in 2004. There are now 40 projects in the PRE programme. Investors are private or publicly-listed companies, state-owned enterprises, and local authorities. The Government does not intend to undertake a third tender round at this stage.

3.51 If the Government does initiate a further round of tenders under the PRE Programme, Waipa District Council may wish to review its assets to determine whether it has any potentially complying projects. Other territorial authorities (including Palmerston North and Christchurch City Councils) have successfully tendered projects under PRE in respect of landfill gas capture and utilisation projects. Those projects have resulted in some 350,000 emission units that can be sold both domestically and internationally.

Afforestation Grant Scheme (AGS)

3.52 The Afforestation Grant Scheme allows foresters to receive a government grant for planting new forests on Kyoto-compliant land, and to take responsibility for meeting all Kyoto harvesting and deforestation liabilities. The AGS is an

alternative to the NZ ETS, and was intended to encourage greater sequestration of carbon.

- 3.53 Waipa District Council could be a recipient of a grant under the AGS if it held suitable land, was willing to plant the land and could comply with the Scheme's requirements. However, unlike the Permanent Forest Sinks Initiative discussed below, while the AGS involves the payment of a government grant, landowners who plant forests under the AGS do not have any rights to the tradable emission units generated by sequestering carbon.

Permanent Forest Sink Initiative (PFSI)

- 3.54 The PFSI was announced in late 2007, and allows landowners to realise the economic value of removing carbon dioxide from the atmosphere. Landowners can gain tradable Kyoto Protocol compliant emission units from the Government equivalent to their forests' sequestration potential. Those units can then be sold on international and national trading markets.
- 3.55 Agreements between landowners and the Crown will be registered as covenants against the title of the land, binding all future landowners. Significant penalties will occur if deforestation occurs.
- 3.56 Many territorial authorities are contemplating direct participation in the PFSI and to that end are currently evaluating their land holdings for areas potentially compliant with the PFSI rules, and determining the costs and benefits of entering that land into the PFSI. The land most appropriate for inclusion in the Initiative is generally marginal land with limited value and/or alternative use.
- 3.57 Territorial authorities can also undertake an indirect advocacy and information role. This role could include assisting parties within the Waipa District applying to participate in the PFSI by providing information on the Initiative, information about land (for example, Council-compiled GIS information), and/or acting as a intermediary between a series of landholders and the government in negotiating PFSI covenants.

Climate Change Response (Emissions Trading) Amendment Act

- 3.58 The Climate Change (Emissions Trading and Renewable Preference) Bill passed its third reading in Parliament on 10 September 2008. Prior to passing, the Bill was split into two pieces of legislation. The first, the Climate Change Response (Emissions Trading) Amendment Act, provides for the introduction of

a carbon emissions trading scheme (*ETS*) and the second, the Electricity (Renewable Preference) Amendment Act, will be discussed below. While the Climate Change Response (Emissions Trading) Amendment Act has been passed by Parliament, at the time of writing it has not yet received formal royal assent – the final stage of a bill becoming law. This process is a formality and is expected to be completed shortly.

- 3.59 The Climate Change Response (Emissions Trading) Amendment Act aims to implement an ETS. The ETS is to be the preferred means of meeting New Zealand's Kyoto Protocol obligation to reduce emissions to 1990 levels during the first commitment period of 2008 to 2012.
- 3.60 The ETS has a wide coverage with an "all sectors, all gases" approach. The ETS imposes obligations to account for emissions on upstream producers (for example, the entity that mines coal or abstracts gas). The ETS has received heavy criticism from many industry, forestry, transport, energy and agriculture operators largely over the way monitoring and compliance obligations are structured.
- 3.61 While the Climate Change Response (Emissions Trading) Amendment Act sets out the basic structure of the NZ ETS a great deal of the key information in terms of how the ETS will affect participants and the economy is yet to be provided. That information will take the form of regulations and will have varying degrees of public consultation and comment. Accordingly, further attention will be needed when those regulations are released.
- 3.62 Prior to the Act passing its third reading, a series of amendments and new policies were advanced. Of those changes the establishment of two new assistance funds are likely to be of greatest interest to the Waipa District. First, a contestable 'Innovation Fund' was established. The Fund is designed to encourage use of innovative technology in the industrial sector that reduces or avoids emissions. The Fund makes 150,000 NZUs (the primary unit of trade under the NZ ETS) available for allocation annually between 2010 to 2012 to 'trade-exposed' companies who have not otherwise received free NZUs. A party who is granted NZUs under the fund can use those NZUs for its own compliance obligations or sell them to domestic or international purchasers.
- 3.63 Second, a household assistance package was promoted. The package provides a one-off electricity rebate to all households to assist with the

expected increase in electricity prices. The payment under the package will be made in 2010 following the Stationary Energy sector's entry into the NZ ETS. Further, the Government has agreed to establish an energy efficiency fund (of approximately \$1 billion over 15 years) to assist households improve their energy efficiency.

3.64 Waipa District Council is likely be affected by the ETS in a number of ways.

Firstly, Waipa could be directly affected if it has ownership of, or management interests in, assets such as forested land established pre-1990, and landfills. These activities are required to directly participate in the ETS and account for their emissions (i.e. from deforestation in respect of pre-1990 forests, or landfill gas emissions in respect of landfills). This could significantly reduce the ability to harvest and redevelop forested land, and increase the operational costs of landfills. Secondly, Waipa District Council is likely to be indirectly affected by the ETS in the form of electricity price increases (a 10-20% increase in retail price is expected from 2010 as thermal generators build the costs of their emissions into the price of electricity), transport fuel price increases (a 4-8% increase in petrol and a 7-14% increase in diesel is expected from 2011 as fuel suppliers pass-on the costs of the ETS) and increases in the cost of coal and gas. Finally, the Council's rating base could be affected if the value of large areas of forested land is reduced as a result of liability attaching to deforestation (and therefore a reduced ability to change land use away from forestry).

3.65 The ETS will also affect a large number of businesses and households in the Waipa District. While the number of compulsory participants in the ETS will be limited (participants are generally upstream generators of products, e.g. coal miners, fuel importers, fertiliser manufacturers, or downstream processors, e.g. meat and dairy processors), the costs of the ETS will be passed through to the wider economy. Accordingly, Waipa District can expect to be affected by changes in response to the ETS including:

- Increased fuel and electricity costs;
- Decreased dairy and meat product returns;
- Increased timber harvesting costs; and
- Increased fertiliser input costs.

The timing of these increased costs will generally be consistent with the start of each relevant sector's compulsory compliance with the ETS.

Electricity (Renewable Preference) Amendment Act

- 3.66 The Electricity (Renewable Preference) Amendment Act was originally part of the Climate Change (Emissions Trading and Renewable Preference) Bill prior to it passing through its final reading on 10 September 2008. Like the Climate Change Response (Emissions Trading) Amendment Act, this Act is awaiting formal royal assent.
- 3.67 The Electricity (Renewable Preference) Amendment Act introduces a 'renewable preference' to energy generation. The purpose of the renewable preference is to restrict baseload fossil fuel generation for a period of 10 years, to provide assurance on the ability to achieve the 90% renewable energy target established in the NZES. In doing so, the Act proposes substantial amendments to the Climate Change Response Act 2002 and the Electricity Act 1992.
- 3.68 Under the Act, there is to be a ban on new fossil-fuelled thermal generation plants or specified plant above 10 MW that use more than 20% fossil fuel; unless a specific exemption is obtained for the connection of the plant. Any existing plants that operate at more than 10% above their initial nameplate capacity will be captured. However, certain provisions are included to protect the security of energy supply. For example, generation plants under a reserve contract with the Electricity Commission do not need to apply for exemptions.
- 3.69 The Act is likely to have its greatest impact on the Waipa District Council in terms of the Council reviewing, processing and determining resource consent applications under the RMA for thermal electricity generation plants. It may also have spin-off effects on existing hydroelectric power schemes currently located in the Waipa District.

4. STRATEGIC OPPORTUNITIES AND CONSTRAINTS

Regulatory changes

RMA amendments

- 4.1 As outlined in paragraph 2.7 above, the RMA has been subject to a number of substantive legislative amendments since its inception in 1991. This trend is likely to continue, as opposed to the wholesale repeal and replacement of the statute.
- 4.2 Currently before Parliament is the Resource Management (Climate Protection) Amendment Bill, a private member's bill introduced by (Green Party co-leader) Jeanette Fitzsimons. The Bill seeks to repeal the sections of the 2004 RMA Amendment Act that removed the ability of local government to consider the effect of the emission of greenhouse gases on climate change when making rules in regional plans or determining air discharge consents. The Bill would allow councils to consider the effects of plans and consent applications on levels of climate change discharge emissions. However, it is unlikely that the Bill will be passed in its current form due to a lack of clear support by either of the two major parties.
- 4.3 The nature of any likely amendments to the RMA will be dictated by the outcome of the general elections scheduled for the third quarter of 2008. A National-led government has publicly announced that it intends to substantially reform the RMA by simplifying and streamlining the processes under the Act in order to reduce delays, uncertainties and costs. National has undertaken to reform the Act within the first 100 days of a National Government, suggesting that a Resource Management Reform Bill will be introduced, which will include all or some of the following¹:
 - (a) Reducing the number of consent categories;
 - (b) Priority consenting for large electricity generation and transmission projects;
 - (c) Limits on requests for more information; and
 - (d) Putting an end to frivolous and vexatious objections (possibly by reintroducing the power of the Environment Court to require security for costs).

¹ See in particular National Party's Energy Policy, 14 August 2008.

- 4.4 Conversely, should we see a Labour-led government, or a coalition featuring the Green Party, it is likely that the RMA will be largely retained in its current form. The exact nature of any legislative amendments is very difficult to predict.

Local Government Act amendments

- 4.5 Both the LGA 1974 and 2002 have been the subject of a number of amendments. The LGA 1974 has been altered by more than 30 amendment acts, and the LGA 2002 has been amended by three amendment acts passed in 2004, 2006 and 2007. The changes made generally relate to technical details, and correct inconsistencies between the two principal Acts.

Public Transport Management Bill

- 4.6 The Public Transport Management Bill, which passed its Third Reading in Parliament on 10 September 2008, will make a number of changes to the way that commercial public transport services are regulated by regional councils. It will repeal the Transport Services Licensing Act 1989, and introduce amendments to a number of other Acts including the Land Transport Management Act 2003.
- 4.7 The Bill is intended to provide regional councils with the tools to improve public transport services by enabling them to access information about commercial operators (such as passenger numbers), and establish controls which those operators must comply with (such as quality and performance standards, integrated ticketing and 'bundling' of services). Those controls will only apply to scheduled services which are available to the public. Quality standards may include environmental standards, such as requiring low-emission buses.
- 4.8 Because many of the changes introduced by the Bill, if passed into law, are 'enabling' only, it will be up to each regional council (or, in the case of Auckland, the Auckland Regional Transport Authority) to adopt any controls or contracting requirements. In relation to the Waipa district, it will be interesting to see whether Environment Waikato utilises any of the new tools introduced by the Bill to develop a better public transport system that meets the needs of the community. Waipa District Council may wish to engage in discussions with Environment Waikato, or take an active role in the next review of the Regional Public Transport Plan (territorial authorities are required to be consulted prior to adoption of a RPTP).

- 4.9 Together with the recent restructuring of the government transport sector, the Public Transport Management Bill is likely to lead to a greater focus on transport infrastructure and services in the Waipa District.

Introduction of National Policy Statements / National Environmental Standards

- 4.10 Current work programmes underway for NPS include:
- (a) Renewable Electricity Generation;
 - (b) Freshwater Management; and
 - (c) Sustainable Water Programme of Action.
- 4.11 The Ministry for the Environment has recently released to the public a proposed NPS for Renewable Electricity Generation which recognises the national significance of the benefits of renewable generation, and promotes a nationally consistent approach to balancing the competing interests in developing renewable resources. It sets out five proposed policies which highlight the benefit of renewable generation and require particular regard to be had to constraints on the ability of renewable generation to avoid, remedy or mitigate environmental effects. A Board of Inquiry has been appointed to consider public submissions on the NPS.
- 4.12 Of particular relevance to Waipa District Council are Policies 4 and 5 of the proposed NPS, which require local authorities, by 13 March 2012, to notify a plan change, proposed plan or variation to enable activities associated with:
- (a) The identification and assessment by generators of potential sites and energy sources for renewable electricity generation;
 - (b) Research-scale investigation into emerging renewable electricity generation technologies and methods; and
 - (c) The development and operation of small and community-scale distributed renewable electricity generation.
- 4.13 It is anticipated that if Policies 4 and 5 remain in their current form then identifying sites and energy sources within district plans will be a hotly contested issue requiring council determination.
- 4.14 A proposed NPS on Freshwater Management is being developed and will seek to provide context and objectives for freshwater management in New Zealand. It is intended that this proposed NPS will assist to achieve the key outcomes of the Sustainable Water Programme of Action. The proposed NPS is expected

to set some specific national targets for water quality, for example swimmable rivers.

- 4.15 It is expected that a proposed NPS on Freshwater Management will be released for public consultation, to be led by a Board of Inquiry. The timeframe for this process is not clear on presently available information.
- 4.16 The Sustainable Water Programme of Action is addressed in paragraphs 2.38 to 2.41 above.
- 4.17 In addition, the Ministry for the Environment very recently announced that it is seeking public input to the scope of a possible NPS on Urban Design. Because this is at a very preliminary stage, no details are available – however if an NPS is developed, this will have implications for the Waipa District.
- 4.18 NES currently in development include:
- (a) NES for Measurement of Water Takes;
 - (b) NES on Ecological Flows and Water Levels;
 - (c) NES for Telecommunications Facilities; and
 - (d) Two NES for Electricity Transmission.
- 4.19 The proposed NES for Measurement of Water Takes and the proposed NES on Ecological Flows and Water Levels are intended to ensure the accurate and comprehensive measurement of water extracted from source, and to promote consistency in the way we decide whether there is sufficient variability and quantity of water flowing in rivers, ground water systems, lakes, and wetlands. These will have significant implications for regional councils, but are of lesser direct relevance to territorial authorities.
- 4.20 The NES for Telecommunications Facilities (expected to be Gazetted later in 2008) will operate to make activities (such as mobile phone transmitters) which emit radio-frequency fields, together with installation of telecommunications equipment, masts and antennas alongside roads or in the road reserve, permitted activities (subject to certain standards). The Ministry for the Environment has indicated that it will produce an implementation package to assist district councils in applying the NES.

4.21 Two NES for Electricity Transmission are currently being developed by the Ministry for the Environment; a transmission activities NES, and a transmission risks NES. Together, these are intended to provide national guidance and direction for managing important electricity transmission infrastructure, and will complement the recent NPS on Electricity Transmission by assisting councils to implement the rules contained in that NPS, and by providing increased national security of supply by protecting the national grid.

Government policy direction – transport

New Zealand Transport Strategy

4.22 The basis of current transport policy is the New Zealand Transport Strategy (NZTS). The NZTS is built around a vision, which is “by 2010 New Zealand will have an affordable, integrated, safe, responsive, and sustainable transport system”. The NZTS provides the framework by which (until recently) Land Transport NZ allocates central Government funding to approved organizations (including local authorities) for implementing transport projects and services. As from 1 July 2008, the New Zealand Transport Agency (formed by the merger of Transit New Zealand and LTNZ) is responsible for administering the NZTS.

4.23 This restructuring of the government transport sector will lead to a greater focus on integrated and sustainable transport systems. The effect of this restructuring on Waipa District is likely to be that greater focus will be placed on transport infrastructure and services when considering growth planning and management of the District's resources.

4.24 An update to the NZTS is expected to be published by the Government in late 2008. The update will provide direction for the transport sector until 2040 in the context of the government's sustainability agenda and other Government strategies in the areas of energy and energy efficiency. Importantly for Waipa District Council, it will also provide clearer guidelines for decisions about funding allocations.

4.25 A Sustainable Transport discussion paper has been released by the Ministry of Transport (December 2007) which recognises the interaction between the NZTS and the NZES and NZEECS, and the Emissions Trading Scheme. The

discussion paper is intended to generate opportunities for discussion which will lead to a complete and suitable update to the NZTS.

Purchase of Rail Assets

- 4.26 The recent Government purchase of national rail assets from Toll Holdings is an indicator that more emphasis will be placed on rail transport in future. The move is seen as a step towards a coherent, integrated national rail system. The purchase is likely to lead to both increased funding and increased responsibilities on local authorities to fund and contract improvements to railway stations and associated facilities. In the Waipa District this could include initiatives such as establishing 'Park and Ride' facilities. Any such initiatives are likely to require public funding, however there is scope for private commercial involvement where practicable.

Government policy direction – water

- 4.27 There has been a clear focus on the issue of water quality recently. This is evidenced by the continuing Government focus on the Sustainable Water Programme of Action. That programme involves the recent introduction of the NES on human drinking water, plus the development of two NES on measurement of water takes, and ecological flows and water levels, and the NPS for freshwater management.
- 4.28 A number of region-wide initiatives have been adopted by regional councils (including Environment Waikato, ECan and Taranaki Regional Council) whereby dairy farms are encouraged to fence and plant riparian areas adjacent to waterways. This reduces excess nutrients and runoff entering waterways. These initiatives follow the 'Dairying and Clean Streams Accord' signed in 2003 by Fonterra, Regional Councils, the Ministry for the Environment, and the Ministry for Agriculture and Forestry. Given the extensive dairy industry present in the district, this issue is expected to be of significant importance in Waipa over the next 5-10 year period. The increasing importance of water allocation is already becoming evident in the greater Waikato region, with pressure from abstraction affecting a number of rivers. The establishment of the Lake Taupo Protection Trust to protect Lake Taupo's water quality is another indicator of this growing awareness which will have implications for surrounding land use practices.

Government policy direction - environment

- 4.29 New Zealand's second national state of the environment report, 'Environment New Zealand 2007' was released by the Ministry for the Environment on 31 January 2008. The report provides constructive information, based on a core set of 19 national environmental indicators, to prioritise decision-making on environmental matters by central and local government (as well as business, iwi and the community). The report notes the increased global recognition of risks from a changing climate, the desire to use valuable natural resources more efficiently, and the need to protect our health.
- 4.30 In addition to the Environment New Zealand report, the Ministry for the Environment has undertaken a number of investigations and reports on environmental performance. These have recently been largely focused on the issues of water quality and climate change.

Possible local government restructuring/boundary adjustments

- 4.31 Recently, the Royal Commission on Auckland Governance has been established to investigate, and make recommendations on, local and regional government arrangements for the Auckland region in the future. The Commission's terms of reference include investigating whether changes to the region's boundaries and/or governance and representation arrangement will best benefit the region.
- 4.32 In light of the Royal Commission process, it is prudent and necessary to consider the likelihood of either a change by way of local government restructuring, or potentially a change to existing local government boundaries. Such a change could arise out of a government-led proposal; or (in the case of a boundary adjustment in particular) it could be the result of a privately initiated petition to the Local Government Commission.
- 4.33 Any local government reorganisation proposal must be dealt with pursuant to the processes and criteria set out in the Local Government Act 2002. That Act requires that the Local Government Commission (or other body or committee deterring the proposal) must satisfy itself that the proposal or scheme will:
- (a) promote good local government of the districts or regions concerned; and

- (b) ensure that each local authority will have resources necessary to carry out its responsibilities, duties and powers.

4.34 At this stage we are not aware of any significant proposal to amend local government boundaries, or to restructure local government in the greater Waikato region. However we note that there are trends appearing towards sharing of infrastructure across district boundaries and between districts and regions, such as the Hamilton Sub-Regional Growth Strategy (and slightly further afield, SmartGrowth in the western Bay of Plenty). These initiatives recognise the policy / planning advantages as well as benefits to ratepayers in terms of cost implications which result from strategic management of growth from a sub-regional perspective.

Direction of regional planning documents

EW Plan Change 6 – Water allocation

- 4.35 Environment Waikato has notified proposed Variation 6 to the partly operative Waikato Regional Plan (*Regional Plan*). The purpose of the proposed variation is to manage the allocation and use of freshwater over the entire Waikato region. In recent times the method by which surface and ground water is allocated in the region has come under increasing scrutiny and sometimes criticism from both political and technical perspectives. Many stakeholders believe that Environment Waikato's water allocation policy framework as reflected in the Regional Plan was not designed to deal with current levels of demand or competition for water. Certainly in recent times, a number of issues have arisen that have stretched Council's ability to respond proactively and appropriately to the demands being placed upon the region's water supply. The proposed variation therefore aims to respond to some of these issues.
- 4.36 The proposed variation deals in particular with the adverse effects of fresh water takes from ground or surface water resources, including establishing a framework for the transfer of surface and ground water permits. The proposed variation also includes policies regarding the establishment of allocable and environmental flows from surface water, and sustainable yields from ground water, as well as for surface water takes for domestic and municipal supply. Existing water takes for domestic and municipal supply are identified as the highest priority for the purposes of assessing competing applications to take water, provided:

- (a) the take was authorised at the time the proposed variation was notified;
- (b) the need for and efficient use of water is clearly established through a water management plan; and
- (c) from 9 August 2008, is in accordance with the requirements of section 124B(4) RMA.

4.37 Such takes are accordingly provided for as controlled or discretionary activities in the proposed variation as notified.

4.38 The proposed variation also provides that Environment Waikato will work with territorial authorities to:

- (a) develop appropriate land use provisions in district plans to avoid, remedy or mitigate adverse effects of land use on ground water aquifer yields, aquifer water quality, spring protection, low river flows and low wetland water levels; and
- (b) encourage and assist territorial authorities to adopt water demand management tools to plan and manage future projected water use.

4.39 In accordance with section 75 RMA, a district plan must not be inconsistent with any regional plan for any matter specified in section 30(1) RMA. Accordingly, the proposed variation will have potential implications in particular for both land management and municipal water supply within the Waipa District.

4.40 The proposed variation was notified on 20 October 2006. Hearings were held in late 2007 and early 2008, and Council's decision following that hearing is currently awaited.

Hamilton Sub-Regional Growth Strategy

4.41 The Sub-Regional Growth Strategy (SRGS) project is intended to provide certainty for long term investment in public infrastructure. The SRGS is an integrated approach by the authorities involved and represents a strategic approach to managing growth and will ensure that land resources are used efficiently and that associated infrastructure implications are understood, planned for and appropriately funded.

4.42 The SRGS is expected to be closely linked with other strategies such as LTCCP's, with transport documents such as the NZTS, and with the key statutes affecting local authorities being the RMA, the LGA and the LTMA.

Iwi issues

4.43 One of the key upcoming issues for the Waipa District with respect to Iwi matters will be the implications arising from the settlement of the claims of various Iwi regarding the Waikato River. In particular, terms of negotiation were signed regarding Waikato-Tainui's Waikato River claim in November 2005, and an Agreement in Principle executed in December 2007. It is also understood that Ngati Maniapoto are similarly in negotiations with the Crown regarding their claim to the Waikato River.

4.44 The parties are currently in negotiations towards the preparation of a Deed of Settlement (including provision for the introduction of appropriate settlement legislation) to resolve this claim. That process has included the forming of a "Guardians Establishment Committee" (GEC), of which the Mayor of the Waipa District is a member. The sole task of the GEC is to prepare a "Vision and Strategy" document for the Waikato River, for approval by both Waikato-Tainui and the Crown.

4.45 A draft Vision and Strategy was notified in May 2008, and submissions invited from the public. Some of the strategies for the Waikato River going forward, as outlined in that draft document, provide as follows:

- (a) Appropriate protocols and actions will be developed between statutory agencies and Waikato River Iwi to provide for co-management of the Waikato River and its catchment. In particular, this will provide Waikato River Iwi with the ability to be a joint decision-maker for proposed activities within, adjacent to, or directly impacting on the Waikato River including its tributaries (Strategy 12);
- (b) At the time of review of statutory documents the relevant Waikato River Iwi and Councils will explore and determine the practicable means of providing for the relationship of Waikato River Iwi and the Waikato Region's communities, with the Waikato River, including their economic, social, cultural, and spiritual relationships (Strategy 13);

- (c) Statutory authorities and Waikato River Iwi explore the best tools available to enable a holistic approach to avoid adverse cumulative effects of activities on the health and wellbeing of the River (i.e. forward looking, and able to address land use and water take) (Strategy 17); and
- (d) All permitted activities within statutory planning documents relevant to the health and wellbeing of the Waikato River and its tributaries will be reviewed to ensure that their cumulative adverse effects are adequately considered and addressed (Strategy 19).

4.46 The detailed outcome of these and other iwi negotiations is currently awaited. However, based on the provisions of the Vision and Strategy that have been publicly notified to date, it is clear that any settlement package for Waikato-Tainui and/or other relevant iwi (in particular Ngati Maniapoto) is likely to have significant implications for, and require increased iwi input into, planning and land use management practices within the Waipa District going forward.

5. BASE CASE CONCLUSIONS

- 5.1 There are a number of policy issues which should be considered in preparation of a growth strategy for the Waipa District. A number of these issues will have wider implications, particularly in terms of District Plan preparation, environmental strategy, land use planning and financial management.
- 5.2 Waipa District Council, like all territorial authorities, operates within a statutory framework. The key statutes include the LGA, RMA and the LTMA. Recent amendments to the RMA and the LTMA will have implications for Waipa District, particularly in terms of emissions of greenhouse gases and climate change (RMA) and funding for transport initiatives (LTMA). In addition, the 2008 general elections may result in significant changes to each of these statutes, particularly if a National government is formed.
- 5.3 There has been considerable central government direction recently in terms of regulatory policy/planning documents. Freshwater management (under the umbrella of the Sustainable Water Programme of Action), and renewable electricity generation / transmission (of specific relevance as the NI GUP affects Waipa District) are currently the key areas of focus for NES and NPS. However, a number of other initiatives are being investigated, including an NPS on Urban Design, which will have significant impacts on Waipa District in terms of land use planning.
- 5.4 Regional focus on the issues of allocation and use of freshwater resources reflects the national policy focus. Variation 6 to the Waikato Regional Plan will (if adopted) require territorial authorities, including Waipa District Council, to adopt water management tools to plan and manage future projected water use.
- 5.5 Waipa District's relationship with the other territorial authorities and with Environment Waikato are important factors in forward planning. Planning and policy consistency, as well as proper and co-ordinated infrastructure and transport linkages and efficient use of ratepayer funds suggest that some form of combined strategic approach may be appropriate. This is occurring nationally with initiatives such as the Royal Commission on Auckland Governance, and SmartGrowth in the western Bay of Plenty. An integrated approach is already being explored in the Waikato region with the promotion of the Hamilton Sub-Regional Growth Strategy.

- 5.6 Of the international factors influencing policy formation in New Zealand generally, and Waipa in particular, climate change is possibly the most high-profile. Climate change legislation and policy are likely to result in significant opportunities for, and obligations on Waipa District Council over at least the next 10 years. Initiatives such as the AGS, PFSI, NZEECS and Climate Change (Emissions Trading Scheme and Renewable Preference) Bill (if introduced) will, create opportunities for Waipa District Council to assume a role in positively influencing climate change in its District. Decisions on transport, renewable energy, and land use will also become more important in terms of reducing greenhouse gas emissions and contributing positively to climate change.
- 5.7 The recent restructuring of transport bodies to create the New Zealand Transport Agency, the government's purchase of national rail assets, and the anticipated update to the NZTS in 2008 are likely to result in greater focus on transport infrastructure and services when considering growth planning and management of the District's resources.
- 5.8 Iwi issues are likely to gain increased significance over the next 10+ years. Negotiations with Waikato-Tainui with respect to the Waikato River have assumed prominence over the last 3 years. Notification of a draft Vision and Strategy, and work continuing towards implementing the strategies for co-management of the Waikato River and its catchment indicates that there will be significant implications for, and require increased Iwi input into planning and land use management practices in Waipa District going forward.