

**UNDER** the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of a hearing by Independent  
Commissioners on behalf of Waikato District Council

of the

Waikato -Tainui Submission to the Proposed  
Waikato District Plan

**Topic 1 Introduction and Topic 2 All of Plan**

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**STATEMENT OF EVIDENCE**

PROVIDED BY

Gavin Rhys Donald

ON BEHALF OF

WAIKATO – TAINUI

AND ENDORSED BY SUBMITTERS

TURANGAWAEWAE MARAE TRUST BOARD AND JACKIE COLLIAR

## **1.0 Introduction**

- 1.1 My name is Gavin Rhys Donald and I hold the position of Managing Director at GMD Consultants Limited. I have over 15 years' experience in the field of resource and environmental planning. This experience has been gained in both council and consultancy settings, in both New Zealand and the United Kingdom.
- 1.2 Having represented Waikato-Tainui on different issues for nearly 10 years, I have significant experience with Waikato River legislation and in particular the Vision and Strategy for the Waikato River. This experience has been gained through assisting regional and district councils address the Vision and Strategy for the Waikato River through policy development and the review of resource consent applications.
- 1.3 I hold a Bachelor of Planning degree from the University of Auckland. I am also a full member of the New Zealand Planning Institute.

## **2.0 Expert Witness Code of Conduct**

- 2.1 I can confirm I am familiar with the Code of Conduct for Expert Witnesses as set out in the Environment Court Practice Note 2006 (and including the amendment). I have read and agree to comply with the Code. Except where I state that I am relying upon the specified evidence or advice of another person, my evidence is within my area of expertise.

## **3. SCOPE OF EVIDENCE**

- 3.1 This evidence is presented on behalf of Waikato-Tainui.
- 3.2 This evidence is provided to specifically address the hearings in relation to the Introduction and All of plan Issues, as they relate the Proposed Waikato District Plan. The Waikato-Tainui submission (submission 286) to the Proposed Waikato District Plan is endorsed by submitters Turangawaewae Marae Trust Board and Jackie Colliar. Turangawaewae Marae Trust Board and Jackie Colliar choose to be heard with Waikato-Tainui for this hearing, and may opt to provide separate evidence for individual hearing topics.
- 3.3 The process to which Waikato-Tainui have arrived at this point, in relation to this plan review process, has been a collaborative one. Effort has been made to include mana whenua in the discussion where possible.
- 3.4 Waikato-Tainui seek amendments to the Proposed Waikato District Plan. These amendments are sought to both improve usability of the proposed plan and it to ensure the plan provides appropriate environmental protections, as sought by the Waikato-Tainui Environmental Plan, Tai Tumu, Tai Pari, Tai Ao.
- 3.5 The amendments sought by Waikato – Tainui on some occasions may be provided for in the 42a Reports for hearing topics 1 (Introduction to the Waikato District Plan) and 2 (All of Plan). The ability to provide this evidence in a combined manner was provided for by the Hearings Panel, following a request from Waikato-Tainui.
- 3.6 **My evidence brief covers:**
- Waikato-Tainui areas of focus;

- Waikato-Tainui submission points that have been attached to the Introduction to the Waikato District Plan and All of Plan considerations;
- The s42a as it applies to the Waikato-Tainui submission; and,
- Submissions that Waikato-Tainui have further submitted to.

#### **4.0 WAIKATO-TAINUI AREAS OF FOCUS**

- 4.1 The Waikato-Tainui Submission to the Proposed Waikato District Plan was more all-encompassing and detailed than the tribe had imagined. It became obvious at an early stage of drafting the submission that there were significant gaps, oversights and general confusion as to what was being proposed in the Waikato District Plan.
- 4.2 Waikato – Tainui, as a responsible Joint Management Agreement Partner, have been available to Waikato District Council to provide assistance and guidance on issues relating to iwi throughout the process. This offer remains and the hearings panel will see at topic hearings that Waikato – Tainui are not only identifying problems or issues but are seeking to provide a way forward through mutually beneficial solutions.
- 4.3 Whilst the submission was broad in nature, the rationale behind changes sought are focused on key aspects of the Proposed Waikato District Plan. These being the concerns around unplanned development and the associated effects on receiving environments, the treatment of Maori freehold land, the lack of recognition protection of the Waikato River and the lack of recognition of iwi as kaitiaki.

#### **5.0 WAIKATO-TAINUI SUBMISSION POINTS TO THE INTRODUCTION**

- 5.1 Waikato-Tainui did not make a significant number of submission points to the Introduction of the Proposed Waikato District Plan. The s42a report has not identified any original submission points from Waikato-Tainui that should be included in this hearing and this is understandable given the high-level approach taken to this chapter by the submission. The submission had asked for some clarity around the structure and recognition of iwi and agreements that are in existence. I am of the opinion that the all of plan hearing is the appropriate place for this discussion.
- 5.2 Waikato-Tainui further submitted to a small number of original submission points made to the introduction. Most supported those submissions that sought clarification of structure, in particular where it was appropriate to consider higher level documents like National Planning Standards and the Vision and Strategy for the Waikato River. I consider that the amendments recommended in s42a report have provided some clarity on these matters.
- 5.3 Waikato-Tainui made a further submission to submission point 680.13 (Federated Farmers of New Zealand), which requests amendment to 1.5.7 to reflect landowners and financiers' inputs into land management. I acknowledge and support the rejection of this submission point, and that this is best addressed in latter hearings which Waikato-Tainui are party to. I note also that the proposed plan does not rely non-regulatory methods and that introducing them at this point could fundamentally effect the plan structure. Councils non-regulatory approach to managing natural resources, such as biodiversity are best to sit outside of the district plan.

#### **6.0 WAIKATO-TAINUI SUBMISSION TO THE PLAN STRUCTURE AND ALL OF PLAN**

- 6.1 Waikato-Tainui submissions that have been included in the 'all of plan hearing' are a mixture of high-level concerns and clarifications sought. Whilst submission point 286.36 seeks the plan process be put on hold or withdrawn, because of no hazards chapter being available, Waikato-

Tainui understand the s42a response to this and will work with WDC to advance the plan review process. I remain of the opinion that notifying a district plan, without a hazard section will continue to present risks and challenges particularly in regard to introducing the hazards topic (Stage 2) in a coherent manner.

- 6.2 The Waikato-Tainui submission point 286.25 also raised the potential for the plan to be put on hold given the high-level spatial planning exercise (Waikato District Blue Print) signalled by Waikato District Council ahead of notification. I understand that the Waikato District Blue print will require further growth, concept and town planning exercises as part of an ongoing implementation process particularly to provide certainty to those communities in the district experiencing growth. To inform growth planning and the proposed district plan zoning this planning should have commenced ahead of notification of the Proposed District Plan. Noting the large areas of land proposed for rezoning to Residential in the Proposed District Plan (i.e. Tuakau west), I consider that council is now in a difficult position in regards to adopting a strategic approach to growth.

Notwithstanding, I consider that the analysis in 4.3.3 42A report fails to address in detail a response to submission point 372.3 (Auckland Council) which seeks incorporating strategic planning documents and activities currently underway into section 1.5 of the plan. I consider that such documents warrant acknowledgment in that section of the plan.

- 6.3 Waikato-Tainui have also had submission points (286.38 & 286.27) coded to this hearing that address general setbacks from the Waikato River. I wish to clarify that the general term 'setback' used in the submission was intended to apply to both the more specific building and earthworks. Waikato Tainui intend that setbacks incorporated both buildings and earthworks activities. These submission points will be addressed better in specific hearings so that they can be heard alongside other submitters who have raised points relating to specific setback rules. In regard to setbacks Waikato-Tainui seek a holistic approach be taken to consider the full ambit of land use practices that will effect the Waikato River. Submission point 286.27 discusses alignment with Proposed Plan Change 1 to the Waikato Regional Plan. I acknowledge that PC1 addresses diffuse discharges from rural-use as pertaining to Waikato Regional Councils s30 RMA 1991 functions; however, it does not in anyway negate the need for the proposed district plan to address appropriate setbacks.

Regardless of Plan Change 1 to the Waikato Regional Plan, Waikato District Council District through its s31 functions has ample scope to investigate and implement setbacks from waterbodies to address a range of land use effects. I further note that development setbacks addressed Implementation Method 8.3.8 of the Waikato Regional Policy Statement which reads as follows:

*Regional and district plans shall ensure that the natural functioning and ecological health of fresh water bodies and coastal water is maintained and where appropriate enhanced, including by:*

...

*h) providing for appropriate development setbacks from fresh water bodies.*

I have found no discussion as to how the district plan gives effect to the above within either the s32 report or the 42a reports released to date. I further note that the above implementation method applies to all waterbodies, rather than just solely the Waikato River.

6.4 Submission point 286.11 seeks greater inclusion of maatauranga maaori in the district plan and subsequently in decision making process. I accept that this not an easy undertaking but would like to see inclusion of maatauranga maaori included in locations of the plan where it can be considered as a matter of discretion in resource processes. It is common practice for assessments to be undertaken by specialist considering noise or traffic effects and it would seem reasonable that maaori cultural values and maatauranga maaori have the same status.

6.5 Maatauranga Maaori is recognised in Objective 3.9 of the Waikato RPS as follows:

*The relationship of tāngata whenua with the environment is recognised and provided for, including:*

*a) the use and enjoyment of natural and physical resources in accordance with tikanga Māori, including mātauranga Māori; and*

*b) the role of tāngata whenua as kaitiaki.*

6.6 It should be note that the objectives and policies contained in Proposed District Plan Chapter 2 (Tangata Whenua) provide a basis for further recognition of maatauranga maaori at the rule level. In this regard, I consider the current approach within the PDP demonstrates an inconsistent approach in regards to the implementation of Chapter 2 within the broader rule framework of the Proposed District Plan. This is evident in regards to objective 2.15(a) and a comparison of the subsequent implementation of policy 2.15.1(a) and (b).

6.7 Objective 2.15 and policy 2.15.1 are as follows:

*2.15 Objective Waikatotanga (way of life)*

*a) Cultural practices and beliefs of Tangata Whenua are respected.*

*2.15.1 Policy- Ngaa taonga tuku iho (Maaori Sites and Areas of Significance)*

*a) Ensure subdivision, use and development does not compromise the cultural and spiritual significance of areas, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora and fauna.*

*b) Areas and sites of significance to Maaori including waahi tapu sites and waahi tapu areas are protected from adverse effects of development or activities on those sites*

6.8 In my opinion it is clear that Policy 2.15.1(b) is addressed in the Proposed District Plan rule framework, such as through specific rules with requirements for addressing the 'effects on heritage and cultural values' as a matter of discretion in regards to earthworks on sites with mapped maaori sites and areas of significance (Rule 22.2.3.2 - Earthworks - Maaori Sites and Maaori Areas of Significance), and Rule 22.4.3 (Title boundaries significant natural areas, heritage items and maaori sites and maaori areas of significance) which enables council to assess the effects on these sites as matter of discretion.

6.9 I would expect similar recognition to cultural values in regards to the implementation of policy 2.15.1(a), which, as drafted applies more generally beyond mapped sites and areas of significance. However, this is not so. For instance, maatauranga maaori and cultural values is not addressed as a matter of discretion in the Rural Zone general subdivision rule 22.4.1.2 RD1 (b) - General subdivision which lists the following matters of discretion:

*(i) subdivision layout and design including dimensions, shape and orientation of the proposed lot;*

*(ii) effects on rural character and amenity values;*

*(iii) effects on landscape values;*

*(iv) potential for reverse sensitivity effects;*

*(v) extent of earthworks including earthworks for the location of building platforms and accessways.*

- 6.10 To incorporate a holistic approach to resource management as anticipated by the Tangata Whenua Chapter (Chapter 2) of the Proposed Waikato District Plan and promoted in the Waikato RPS, I consider that Policy 2.15.1(a) deserves equal recognition in the rule framework as Policy 2.15.1(b), and that maatauranga maaori and cultural values deserve equal status and standing in the plan to matters such as rural character, amenity values, landscape values and reverse sensitive effects. To recognise and implement higher order planning documents, and the Waikato-Tainui Environmental Plan, this can be achieved through the inclusion of matters of discretion in controlled and restricted discretionary activity to include effects on maaori cultural values, spiritual values and practices as articulated through matauranga maaori.
- 6.11 Waikato-Tainui have provided support by way of further submission to submitters that have promoted recognition, consideration and implementation of the Vision and Strategy for the Waikato River.
- 6.12 Waikato-Tainui have observed the use of a letter signed by the Waikato-Tainui Environmental Manager, pre notification. I am assuming that this letter is provided as 'proof of engagement'. I accept the letter is appropriate to acknowledge engagement has occurred, however I am of the opinion that this letter does not provide validation of specific plan provisions that are provided to address iwi concerns, or recognition and protections around the Waikato River. Furthermore, in no way was the letter intended to limit the ability for Waikato-Tainui to be involved in the plan process as it progressed. There is no commitment to what was notified in the plan, as there was no way to guarantee the work undertaken by iwi in partnership with the Waikato District Council has been brought thought to the notified version of the plan. In this regard it is worth noting the draft district plan content and structure changed significantly and rapidly in the months leading up to notification. Many of the earlier discussions between staff and the Iwi Reference Group were based on a different plan structure and content to that which was notified.

## **7.0 SUMMARY**

- 7.1 Waikato -Tainui remain committed to the Waikato District Plan review process, to ensure positive outcomes for the people of Waikato-Tainui and the community in general. I am of the opinion that Waikato-Tainui contributions will become increasingly relevant in specific chapters, rather than this non-specific All of Plan hearing. At this early stage of hearings, Turangawaewae Marae Trust Board and Jackie Colliar will continue to support the Waikato-Tainui evidence.