

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing Submissions and Further Submissions on the Proposed Waikato District
Plan (Stage 1)

**MEMORANDUM BY COUNCIL TO HEARING COMMISSIONERS RELATING TO MAAORI
AREAS AND SITES OF SIGNIFICANCE**

19 August 2020

May it please the Hearing Commissioners:

- I. In the Directions issued by the Hearings Panel on 4 August 2020, paragraph I outlined directions for further information as follows:
 - a. Counsel for the Waikato District Council, Ms Parham, is to reduce to writing the submissions she presented orally to the Panel at the commencement of the hearing.
 - b. Council staff are to provide written details of how the owners of land that the Proposed Waikato District Plan (“proposed plan”) identified as containing either a “Maori Site of Significance” or a “Maori Area of Significance” were informed of that at the time the proposed plan was publicly notified. This information may be incorporated into Ms Parham’s submissions, as per a above.
 - c. Council staff are to provide a table setting out the following details regarding all privately owned land that was not identified as either a “Maori Site of Significance” or a “Maori Area of Significance” in the proposed plan, but which submissions on the proposed plan requested be identified as such:
 - i. The address of the land in question;
 - ii. The owner(s) of the land in question;
 - iii. The name of the submitter and a summary of what the submission sought;
 - iv. Whether the owner(s) of the land lodged a further submission on the matter, and if so, a summary of the further submission; and
 - v. A summary of the recommendation contained in the section 42A report, or the rebuttal section 42A report, including whether any further on-site investigations were recommended.
 - d. Council staff are to liaise with representatives of Ngati Tamainupō and Perjuli Developments Limited and provide a written chronology of the various statutory approvals that were sought and obtained under the Resource Management Act 1991 and the Heritage New Zealand Pouhere Taonga Act 2014 for development of land in the vicinity of 5851 Great South Road, Ngaruawahia that was previously rurally zoned, and which is now zoned for residential development. For the avoidance of doubt, we are only seeking the following information in respect of this paragraph d:
 - i. The dates on which any proposed rezonings were publicly notified and the decisions issued;
 - ii. The dates on which any resource consent applications were made for the various development stages and the decisions issued; and
 - iii. The dates on which any applications for permissions under the Heritage New Zealand Pouhere Taonga Act 2014 were made and the decisions issued.
 - e. The Hearings Administrator is to provide these Directions to all parties that attended Hearing 20.
2. In response to these Directions, Council’s legal counsel Ms Bridget Parham has prepared a written statement providing the information sought in clauses a. and b. above, and that document is appended to this memorandum.
3. The table below sets out the details of all privately owned land that was not identified as either a Maori Site or Area of Significance in the notified version of the Proposed District Plan, but which submissions on the proposed plan requested be identified as such in accordance with clause c.

| Address | Owner(s) of the land | Name of the submitter | Summary of what the submission sought | Any further submissions | A summary of the recommendation contained in the section 42A report | Did Dr Kahotea recommend any further site investigations? |
|---|---|--|---|--|--|---|
| Riria Kereopa Memorial Drive, Raglan | Te Kopua No 3 & 4 Blocks | Rolande Paekau [152.8] | Add the waahi tapu located at the end of Riria Kereopa Memorial Drive to Schedule 30.3 MSOS. | FSI323.158 HNZPT – Oppose 152.8. | Re Para 79 & 80. Ms Paekau recommend that this submission be accepted and that the Burial Ground be noted on Te Kopua 3 as shown in 6.8 page 45. The hapuu dealt with the process according to their tikanga. | No Dr Kahotea was not asked to comment or undertake site visits. |
| Kernott Road, Horotiu (Opposite No 24 Kernott Road) | Horotiu Farms Limited | Warren & Heather Parker [187.1] | Add the property opposite 24 Kernott Road, Horotiu to Schedule 30.4 as Maaori Area of Significance (The submitter states that the site has just as many 'borrow pits' as the neighbouring property and should be saved too) | FSI323.146 HNZPT - Support | Re Para 82-84. The site was viewed and acknowledged that it is a significant example of the horticultural landscape. Although it needs discussion with the owner, engagement with Tangata Whenua and an Authority from HNZPT, Ms Paekau agreed with Dr Kahotea's recommendation that it be scheduled. | Dr Kahotea has provided a cultural review associated with Maaori horticulture and recommends that the remaining horticultural sites be recognised as an area of significance as identified by the submitter. Dr Kahotea comments that Tangata Whenua has a significant heritage landscape and hapuu are facing it being rapidly depleted. |
| Riverbank Road, Mercer | Department of Conservation for Schedule Item MAOS SS73 Te Paina and S12/273 Cultivation and Papakaainga Area on Mercer Domain. (note that Lot 90 has been divided into Lot 90 A & B | Liam McGrath on behalf of Mercer residents and Ratepayers Committee [367.52] | Add Te Paina Pa, Mercer Recreation Reserve, Riverbank Road, Mercer to Schedule 30.4 Maaori Areas of Significance. | FSI323.147 HNZPT - Support | The references identified to the two locations were notified on the proposed planning map. Upon consideration after the site visit and Dr Kahotea's research, Ms Paekau recommended that the submission be accepted however no changes to the maps are necessary | Site visit was undertaken. Dr Kahotea recommends further research to define a boundary for the kaainga separate from the gardening area. (as suggested in Figure 39 of Dr Kahotea's report). This part of Lot 90 (now Lot 90A) is identified where the Te Paina kaainga were re-established. |

| Address | Owner(s) of the land | Name of the submitter | Summary of what the submission sought | Any further submissions | A summary of the recommendation contained in the section 42A report | Did Dr Kahotea recommend any further site investigations? |
|---|---|--|--|---|---|---|
| | and Lot A is retained under Maori ownership) | | | | | |
| Cnr Gordonton Road and Piako Road | St Mary's Anglican Church (Waikato Diocesan Trust Board) 974 Gordonton Road Waikato district Council (Designation M490) Gordonton Cemetery AH &LV Smith (farm lane bordering Gordonton Road | Ruruhia Cila Henry [812.1] | Amend the Proposed Waikato District Plan to include the Karamu Paa and Urupa as waahi tapu on the corner of Gordonton Road and Piako Road. | No | Comments refer to paragraphs 90-92 of the area that belonged to Ngaati Wairere. Ms Paekau recommended that Mrs Henrys submission to identifying the Paa and Urupaa as an MSOS and being scheduled in the district plan be accepted. | No but Dr Kahotea comments it is not known why Karamu Paa was not included in the PWDP and recommended supporting the submission. |
| 5851 Great South Road, Ngaruawahia (Submission also included 2831 River Road but this property was not addressed) | Perjuli Development Limited | Kimai Huirama – Ngaati Tamainupo [962.1] | Add protection on some of the significant burrow pits on the properties at 5851 Great South Road and 2831 River Road Ngaruawahia, and any other section the submitter deems to be of high cultural significance (e.g. proximity to Pukelaahua and size). | FS1111.2 Ngaa Uri o Tamainupo Ki Whaingaroa – Support FS1323.165 HNZPT - Support | Comments refer paragraphs 93-99. Ms Paekau recommended that the cluster of borrow pits, or remaining borrow pits be added to the planning map and schedule 30.3 as an MSOS and the supporting further submissions be accepted. | Email contact was made with the River Terraces Subdivision, Perjuli Developments Ltd on 13 March 2020 to request access to the property at 5851 Great South Road, Ngaruawahia for Dr Kahotea and Ms Paekau to assess the borrow pits. The developer declined to meet with them or allow access to the property. Dr Kahotea has said that issues raised by Ngaati Tamainupo are best addressed by Council undertaking a review of the state |

| Address | Owner(s) of the land | Name of the submitter | Summary of what the submission sought | Any further submissions | A summary of the recommendation contained in the section 42A report | Did Dr Kahotea recommend any further site investigations? |
|---------|----------------------|-----------------------|---------------------------------------|-------------------------|---|--|
| | | | | | | of the remaining Waikato Horticultural Complex borrow pits with tangata whenua, to develop a strategic or management plan with preservation and conservation objectives. |

4. In Ms Paekau's rebuttal evidence dated 27 July 2020, Figure 3 delineates an area of The Point at Ngaruawahia that she recommends for inclusion as a Maaori Area of Significance. Upon comparison with the submission from Heritage New Zealand Pouhere Taonga and the evidence from Ms Carolyn McAlley on behalf of Heritage New Zealand Pouhere Taonga which led to this recommendation, the area in the s42A report appears to be much broader than that sought in either the submission or the evidence. Figure 3 in the s42A rebuttal report includes private land, whereas the submission and evidence of Heritage New Zealand Pouhere Taonga only relates to land in Council ownership. For completeness I have listed the private landowners covered by the recommendation in the s42A rebuttal report, but this will be revisited in Council's concluding statement for Hearing 20 Maaori Areas and Sites of Significance given the scope afforded by the submissions and evidence of Heritage New Zealand Pouhere Taonga.

| Address | Name of the Landowner(s) |
|---------------------------------|--|
| 1 Broadway Street Ngaruawahia | Mihi Ngawhika-Birch |
| 1 Sampson Street, Ngaruawahia | Ronald Douglas Graham Leonie Glenis Graham |
| 2 Sampson Street, Ngaruawahia | Leonie Grace Hone Mere Frances Hunt Christopher Ian Hunt |
| 4 Sampson Street, Ngaruawahia | Glenn Robert Hunt |
| 6 Sampson Street, Ngaruawahia | Raewyn Jean Greenland |
| 8 Sampson Street, Ngaruawahia | Colin Alexander Geard |
| 13 Broadway Street Ngaruawahia | Karin Theresa Giesen Michael John Neale |
| 11 Broadway Street Ngaruawahia | MLMS Properties Limited |
| 9 Broadway Street, Ngaruawahia | Van Berkel Limited |
| 9A Broadway Street, Ngaruawahia | Van Berkel Limited |
| 7 Broadway Street Ngaruawahia | Tania Shannon Cooper |
| 5 Broadway Street Ngaruawahia | Paki Rameka Rawiri Paula Huia Rawiri |
| 3 Broadway Street, Ngaruawahia | Brett Herbert Lightfoot |
| Waingarō Road, Ngaruawahia | Ramon Douglas Cronin |

5. In accordance with clause (d), Council has collated a chronology of authorisations and consent processes in collaboration with Mr Brent Glover and Mr Tim Lester representing Perjuli Developments Ltd, and Kimai Huirama representing Ngaati Tamainupo. Whilst outside the scope of the Panel's Directions, both representatives requested that I convey additional feedback in my memo to the Panel. Mr Lester requested that Council make it clear to the Panel that he considers Council did not inform landowners directly when a site of significance is being applied to their property. I note that the Perjuli site was the subject of a submission rather being included in the notified Proposed District Plan, and the notification requirements are different for each of these parts of the plan review process. This issue is addressed in paragraph 3 Ms Parham's appended legal submissions. Ms Huirama requested that the Panel understand the involvement (or lack thereof) of mana whenua in the resource consent processes.

| Date Application Lodged | Date Decision Issued | Application # | Application Description |
|--------------------------------|-----------------------------|---|---|
| 20/12/2013 | 21/10/2014 | SUB0082/14 | To create 39 residential lots ranging in size from 544m2 to 960m2, one access allotment and a road 1.2ha in size to be vested in Council in the Living Zone |
| 2/10/2015 | 30/10/2015 | SUB0082/14.01 | S127 to amend condition 1 and the approved plan associated with increasing the size of nine consented lots, two of which will include land within the adjoining rural zoned property |
| | 18/01/2017 | HNZ Authority Number 2017/495 (S14/374 and S14/468) | General Archaeological Authority granted pursuant to section 48 of the HNZPT Act 2014 for the sites at 5859-5885 Great South Road, Ngaruawahia to develop a residential subdivision including residential lots, road / street network, drainage and services. |
| 19/04/2017 | 25/07/2017 | SUB0243/17 | Create 56 residential lots, 1 balance lot, 5 road lots, 2 local purpose reserves and 1 lot being land to be transferred to council |
| 19/04/2017 | 25/07/2017 | LUC0502/17 | Land use consent for building setback non-compliances within 11 of the consented lots and earthworks within the consented balance lot as part of subdivision (SUB0243/17) – processed concurrently with SUB0243/17 |
| 29/09/2017 | 3/10/2017 | SUB0243/17.01 | S127 to vary four conditions of the original subdivision consent (SUB0243/17) as a result of changing the configuration of some of the consented lots, changes to some of the stages and extending a consented portion of road. |
| 3/10/2017 | 15/12/2017 | SUB0097/18 | Undertake a subdivision to create 63 residential lots and 6 roads to vest in six stages in the Living Zone (New Residential) as a Discretionary Activity |
| 3/10/2017 | 15/12/2017 | LUC0218/18 | Land use consent for building setback non-compliances within 12 of the consented lots as a Discretionary Activity allowing buildings to be constructed up to 5m from the boundary of Great South Road as part of subdivision consent (SUB0097/18) and 6 roads to vest in six stages in the Living Zone (New Residential) – processed concurrently with SUB0087/18 |
| 8/07/2019 | 14/08/2019 | SUB0097/18.01 | Application to change conditions 1, 6 and 11 for SUB0097/18 and add conditions 55A, 57A, 58A, 60A and 61 in relation to the construction of retaining walls |
| 16/08/2019 | 25/09/2019 | SUB0097/18.02 | S127 to change/cancel conditions of subdivision consent SUB0097/18 to change condition 1 (general accordance) and add conditions 54A (safety fence), 54B, 55B (consent notices) and 55B (covenant) in relation to the construction of a retaining wall. |
| 02/03/2020 | 07/04/2020 | LUC0350/20 | Earthworks within the Stage 6 area of 5851 Great South Road |
| | 25/03/2020 | HNZ Authority Number 2020/519 (S14/110 and S14/373) | General Archaeological Authority granted pursuant to section 48 of the HNZPT Act 2014 in respect of the archaeological sites, to undertake earthworks for residential development at 5851 Great South Road, Ngaruawahia |

| | | | |
|------------|------------------|------------|--|
| 17/04/2020 | Decision pending | SUB0139/20 | Formally accepted under s88 by Council 01 May 2020 Subdivision Stage 6, 5851 Great South Road to create 39 lots and a road to vest. |
|------------|------------------|------------|--|

Note: Application SUB0178/17 to create 115 residential lots CANCELLED - subdivision of that land was assessed under two separate applications – SUB0243/17 & SUB0097/18

6. In terms of the relevant dates for rezoning of the site, I can confirm that the site was subject to Plan Change 17 – Ngaruawahia and Surrounding Villages Stage One Proposed Rezoning. The key dates are as follows:

Notified: 15 April 2016
Decision: 11 November 2016
Operative: 24 February 2017

7. At the hearing for Maori Areas and Sites of Significance, Commissioner Cooney enquired as to how many of the sites identified as such in the notified version of the Proposed District Plan were privately owned. Council has analysed the landowner database for each of the sites and records the following:

| | Number scheduled | Number of titles affected | Land ownership | | |
|------------------------------|------------------|---------------------------|-----------------|-------------------|-------------------------|
| | | | Privately owned | Iwi incorporation | Government organisation |
| Maaori Areas of Significance | 80 | 612 | 408 (66%) | 40 (7%) | 164 (27%) |
| Maaori Sites of Significance | 300 | 439 | 377 (86%) | 5 (1%) | 57 (13%) |

8. It is probable that some of the parcels identified as privately owned are in the ownership of hapuu, but this was not obvious from the description of the landowner in the rating database.

Dated at Ngaruawahia this 19th day of August 2020



Carolyn Wratt
Principal Planner

“Appendix A”

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of hearing submissions and further submissions on the proposed Waikato District Plan

AND

IN THE MATTER of matters arising during Hearing 20: Maaori Sites and Areas of Significance

**LEGAL SUBMISSIONS
ON BEHALF OF WAIKATO DISTRICT COUNCIL ARISING FROM HEARING 20:
MAAORI SITES AND AREAS OF SIGNIFICANCE HEARD 3 AUGUST 2020
Dated 19 August 2020**

TOMPKINS | WAKE

Solicitor: Bridget Parham
Bridget.Parham@tompinkswake.co.nz

Counsel: Bridget Parham
Bridget.Parham@tompinkswake.co.nz

BAP-204622-799-865-2:kc

Westpac House
430 Victoria Street
PO Box 258
DX GP 20031
Hamilton 3240
New Zealand
Ph: (07) 839 4771
Fax: (07) 839 4913
tompinkswake.co.nz

MAY IT PLEASE THE HEARING COMMISSIONERS**INTRODUCTION**

1. These submissions address two matters identified in the directions of the Hearing Commissioners dated 4 August 2020 (“Directions”), issued following hearing topic 20: Maaori Sites and Areas of Significance held in Ngaruawahia on 3 August 2020:
 - (a) Provide a written record of the oral submissions presented at the hearing on behalf of the Waikato District Council (“Council”) as to whether:
 - (i) There is any obligation on Council to inform landowners who are not submitters that other submitters seek to include a site or area on their property in Schedules 30.3 or 30.4 of the proposed Waikato District Plan (“proposed plan”);
 - (ii) The interests of such landowners can be taken into account in the Commissioners’ decision-making on submissions; and
 - (iii) Those landowners are entitled to be heard at the hearing notwithstanding they do not have standing as a submitter (paragraph 1(a) of the Directions); and
 - (b) Details of how the owners of land that is identified in the proposed plan as containing either a Maaori Site of Significance or a Maaori Area of Significance were informed of the proposed scheduling at the time the proposed plan was publicly notified (paragraph 1(b) of the Directions).

Is there an obligation on Council to inform affected landowners?

2. There are a number of instances whereby certain sites or areas in the district were not listed as a Site of Significance to Maaori or Area of Significance to Maaori in Schedules 30.3 or 30.4 of the notified proposed plan, a party other than the landowner has lodged a submission seeking that the sites or areas be included in the schedules, the landowner has not submitted or further submitted on the issue of scheduling and the section 42A report author now recommends that those sites or areas be included in either Schedule 30.3 or 30.4 in response to submissions.
3. The Council did not inform the landowners in the category described above that their property is now subject to a submission to have a site or area on their property scheduled in the proposed plan as a Site or Area of Significance to Maaori. However, there is no requirement under the Resource Management Act 1991 (“RMA”) for Council to notify individual landowners whose properties may be potentially affected by a submission.
4. Rather, the Schedule 1 process is designed to provide an opportunity for participation by affected persons in the following ways:
 - (a) The proposed plan must be publicly notified¹;
 - (b) Directly affected ratepayers must be served a copy of the public notice of a proposed plan by a territorial authority²;
 - (c) Territorial authorities must send to directly affected ratepayers such further information as the territorial authority thinks fit relating to the proposed plan³;

¹ Clause 5(1)(b) of Schedule 1.

² Clause 5(1A) of Schedule 1.

³ Clause 5(1A) of Schedule 1.

- (d) Territorial authorities must send a copy of the public notice to any other person who, in the territorial authority's opinion, is directly affected by the plan⁴;
 - (e) The public notice must, among other things, state that any person may make a submission on the proposed plan⁵;
 - (f) Any person may make a submission (except trade competitors unless directly affected by a non-trade competition effect)⁶; and
 - (g) The Council must then give public notice of the availability of a summary of submissions and any person may make further submissions in support or opposition to a submission⁷.
5. It is reasonably common for a submission to impact on an individual property owner's interests in a way that a notified proposed plan does not. This is why the Schedule 1 process imposes an obligation on Council to publish a "summary of decisions requested by submitters" following the close of primary submissions.⁸
6. The purpose of the summary of decisions is to enable property owners to review the summaries to see if a submission impacts on their interests greater than the interest that the general public has. The purpose of the further submission process is to enable landowners who were not impacted by the notified proposed plan, but are now impacted by a submission, to become involved in the process as a further submitter.
7. There are five landowners who did not lodge either a primary submission supporting the non-inclusion of their property in Schedule 30.3 or 30.4 or a further submission opposing a request by another submitter(s) for their property to be scheduled.

⁴ Clause 5(1A) of Schedule 1.

⁵ Clause 5(2) of Schedule 1.

⁶ Clause 6(3) and (4) of Schedule 1.

⁷ Clauses 7 and 8 of Schedule 1.

⁸ Clauses 7 and 8 of Schedule 1.

8. In my submission, the lack of participation in the submission process by these landowners in this topic can not be said to fall into the category of cases where a landowner claims that the relief sought in the submission was not “fairly and reasonably raised in the submissions” (as per the test in *Countdown Properties (Northlands) Limited v Dunedin City Council*⁹). In this topic, the submitters seeking the inclusion of certain sites or areas in Schedule 30.3 and 30.4 of the proposed plan sufficiently identified the property to be included¹⁰, as did the summary published by Council.
9. A review of the published summary of submissions by Council would have alerted the landowners of the fact their property was subject to a submission requesting the scheduling of certain sites or areas on their property. The landowners then had the opportunity to review the full primary submissions relating to that request and lodge a further submission if they were opposed to the relief.
10. Council has chosen not to notify landowners where their property or interests may be subject to a submission, instead, relying on the Schedule 1 process as it is entitled to do so. The proposed plan attracted nearly 1,000 submissions and approximately 10,000 individual submission points. Council’s approach is consistent for all topics across the proposed plan, including other topics involving scheduling such as historic heritage, notable trees and designations.

Relevance of landowners’ interests in decision-making and whether they can be heard

11. Despite a number of landowners not having standing as a submitter on this topic, in my submission their interests can be taken into account in the Commissioners’ decision-making on submissions concerning their property.

⁹ [1994] NZRMA 145 at 166.

¹⁰ Refer to Council’s Memorandum of 19 August 2020, Table 1.

12. The legal basis for this is section 76(3) of the RMA. This expressly provides that in making a rule, Council shall have regard to the actual or potential effect on the environment, including in particular, any adverse effects. The inclusion of sites or areas in Schedules 30.3 and 30.4 triggers rules that impose restrictions on the extent of the scheduled site as mapped on the planning maps or the entire property in the case of a scheduled area.¹¹
13. The definition of “environment” in section 2 of the RMA is broad and includes:
- (a) *ecosystems and their constituent parts, including people and communities; and*
 - (b) *all natural and physical resources; and*
 - (c) *amenity values; and*
 - (d) *the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.*
14. Hence, the landowner and the land itself makes up part of the environment, as does the social and economic conditions which affect the landowner and land, being the restrictions imposed if a site or area located upon the land was listed in Schedules 30.3 or 30.4. This is particularly so in the case of the property at 5851 Great South Road, Ngaruawahia owned by Perjuli Developments Limited (“the Perjuli land”), which is subject to a land use consent for earthworks which has not yet been given effect to.
15. Therefore, in determining whether to accept the submissions seeking the scheduling of sites or areas on other persons land, the Commissioners

¹¹ Schedules 30.3 and 30.4 proposed plan.

must take into account the adverse effects on the landowner arising from having their property included in Schedules 30.3 or 30.4 of the proposed plan.

16. This obligation applies notwithstanding the landowners have not engaged in the submission process. The section 42A report did not identify the adverse effects on any of the landowners. Furthermore, in at least one instance (the Perjuli land), the report author recommends the scheduling of 7 burrow pits but the Council's consultant expert, Dr Kahotea, does not go that far. Therefore, to ensure the principles of natural justice are followed and that all relevant information is before the Commissioners, it is my submission the Commissioners are entitled to hear from the landowners. The landowners can express their views in relation to the submission concerning their property and how the scheduling will affect them as landowners. However, the landowners cannot present technical or expert evidence as that privilege is reserved for submitters.
17. In my submission the interests of the landowners are highly relevant to the evaluation required under section 32AA of the RMA if the submissions were to be accepted, particularly in relation to costs and the risk of acting. In the case of the Perjuli land, the existence of the granted but unimplemented earthworks consent on land recently zoned Residential under a 2017 Council initiated plan change is also relevant to the section 32AA evaluation. These are further reasons why it is appropriate to hear from the landowners.
18. The Commissioners will be aware that section 39(1) of the RMA empowers the Commissioners to establish a procedure for hearings that is "appropriate and fair in the circumstances". The landowners find themselves in a position whereby a submission, if accepted, will have a greater impact on them than the notified proposed plan. As the landowners are not submitters, they have no standing to lodge an appeal against any decision to schedule sites or areas located upon their

properties. If a submitter was to lodge an appeal against a decision not to schedule a landowner's property, the landowner can then become a party to the appeal under section 274 of the RMA on the basis that they have an interest in the proceeding that is greater than the interest that the general public has. However, their involvement is dependent on an appeal first being lodged. If a submission seeking scheduling is accepted, a submitter is unlikely to appeal, unless the scheduling does not go far enough.

Communication with landowners whose property contained a Site or Area of Significance to Maori in notified proposed plan

19. At the time the proposed plan was notified on 18 July 2018, Council sent three forms of communication to landowners in the district.
20. The first communication consisted of a letter addressed to *all* ratepayers in the district ("general letter"). This letter advised ratepayers that Stage 1 of the proposed plan was publicly notified on 18 July and was open for submissions. The letter enclosed a copy of the public notice and explained how and when to make a submission. The letter also enclosed a double-sided flyer outlining the key changes between the Operative Waikato District Plan (Franklin and Waikato Sections) and the proposed plan (Stage 1). Relevantly, this flyer included a heading "**Tangata Whenua**" and the following text:
 - The extent of sites and areas of cultural significance to Maaori have been identified and mapped across the district. Earthwork restrictions continue to apply.
21. A copy of the general letter and flyer sent to all ratepayers is attached to these submissions and marked Attachment "A" and "B" respectively.
22. The second form of communication consisted of a more targeted layer of communication sent to landowners identifying specific changes applying

to their property (“targeted letter”). These targeted letters identified matters such as the scheduling or mapping of:

- (a) Maaori Site of Significance;
 - (b) Maaori Area of Significance;
 - (c) Significant Natural Area;
 - (d) Item of Historic Heritage;
 - (e) Notable Trees; and
 - (f) Hamilton Basin Ecological Management Area.
23. An example of a targeted letter is attached and marked Attachment “C” to these submissions. This letter did not identify the nature of the scheduled site or area of significance to Maaori (for example Paa site) nor include a map showing the location of the sites or areas on the particular property.
24. Both the general and targeted letters did however invite the landowner to contact Council if they had any questions.
25. The section 32 report (Part 2) headed “Tangata Whenua” dated June 2018 addresses the topic of sites and areas of significance to Maaori and included as Appendix 4 a report prepared by Dr Kahotea dated June 2018 on the methodology for establishing boundaries for the Maaori sites of significance.
26. The section 32 report identifies at paragraph 1.6 (page 8) that specific consultation on the topic of Maaori sites or areas of significance was commenced with landowners in May and June of 2018 when letters were sent to property owners advising that a site or area was located on their property. The section 32 report records that written feedback was received and planning staff spoke to 68 landowners by telephone.

27. For completeness, the third form of communication to landowners around the time of notification consisted of a letter identifying if a property was affected by a designation.
28. Council acknowledges that the landowners who now find their properties subject to a submission seeking the inclusion in Schedules 30.3 or 30.4 of the proposed plan did not receive either pre-notification consultation nor the targeted letter at the time of notification as the notified proposed plan did not schedule any sites or areas on their property. However, as described above, the landowners had an opportunity to participate as further submitters in the Schedule 1 process.
29. If however the Commissioners consider it is fair and appropriate to hear from all non-submitter landowners whose land is subject to a submission on this hearing topic, and were not in attendance at the hearing to express their views, then the recommended approach is for Council to write to the landowners and give them an opportunity to provide written feedback that can be incorporated into the section 42A author's reply for the Commissioners' consideration.
30. However, I confirm my view expressed at the hearing that it is not necessary or desirable to formally re-notify those landowners and allow a further submission period as Council has properly complied with the Schedule 1 process. To do so would cause prejudice and delays to both submitters and Council.



B A Parham
Counsel for Waikato District Council

16 July 2018



Postal Address

Private Bag 544
Ngaruawahia, 3742
New Zealand

0800 492 452

www.waikatodistrict.govt.nz

Dear resident,

NOTIFICATION OF THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

We are writing to inform you that Stage 1 of the Proposed Waikato District Plan (the Proposed Plan) was publicly notified on Wednesday 18 July, 2018, and is now open for public submissions. Included with this letter are two public notices. The first public notice notifies the Plan and sets out how you can have your say through the submission process. The second public notice lists the documents that the Plan incorporates into the plan rules and tells you how you can provide comment on these.

What is a district plan and what does it mean for you?

The District Plan is a key document for the Waikato district. It controls the way land is used, developed, subdivided and protected in the district. It also promotes the sustainable management of our natural and physical resources, mainly through managing growth (i.e. controlling where communities can build or expand) and managing the effects on our environment because of the way we use land. It is important to note that the effects of land use are managed differently around the district to reflect the local environmental issues.

Every council in New Zealand is required to have a district plan. These plans are important because they identify the range of activities expected in a district, where activities are expected to occur and under what limits or restrictions.

The Proposed Plan is Waikato District Council's Stage 1 review of the current Operative Waikato District Plan (Operative Plan) as required by Section 79(1) of the Resource Management Act 1991 (RMA). The Operative Plan contains a Waikato section and a Franklin section following the local government boundary changes in 2010. The review combines the Franklin and Waikato sections into a single district plan with a consistent policy and rule framework for the entire district.

Waikato District Council has been through an extensive consultation and drafting process to develop the Proposed Plan. Much has changed since the former Franklin District Plan was made operative in February 2000 and the last review of what is now the Waikato Section in 2004. There are challenges to balancing population growth while retaining the special character of the district's towns and villages. We also need to ensure that the Proposed Plan is up-to-date with what is happening in the district and incorporate changes to legislation.

Notification of the Proposed Plan is being done in two stages, with the Natural Hazards and Climate Change section (Stage 2) being notified in 2019.

An explanation of the key changes between the Operative Plan and the Proposed Plan and how they affect or impact the entire district is included with this letter.

It is important that you check to see if there are any changes to your property under the Proposed Plan, as you may wish to make a submission. Use the infographic on the website (reprinted to the right of this letter) to help you find out more about the possible changes to your property. To identify all proposed changes, throughout the district please see the Proposed Plan. You can view the entire Proposed Plan, including the maps, on our website. It can also be viewed at each of our Council offices and libraries during office hours.

Have your say

You are encouraged to have your say by making a submission on any part of the Proposed Plan. Submissions are open from **Wednesday 18 July, 2018** and close at **5pm, Tuesday 9 October, 2018**.

If you can, please make a submission online at www.waikatodistrict.govt.nz/pdp. An instructional video to help you make your submission is available on our website and we are planning community drop-in sessions throughout the district in August and September if you require additional support in making a submission.

Submission forms can be downloaded from Council's website or picked up from any of our offices and libraries. You can then return it to us by:

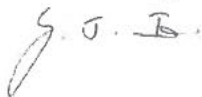
- posting it to Waikato District Council, Private Bag 544, Ngaruawahia, 3742; or
- emailing it to districtplan@waic.govt.nz.

If you would like to request a submission form be sent to you, please phone us on 0800 492 452.

As part of the review of the Operative Plan, we are looking at existing and new designations in the district (a designation is land used for public utilities such as power lines and schools). If your property is affected you will receive a separate letter regarding this.

If you have any questions, please email districtplan@waic.govt.nz and a Policy Planner will respond to your query as soon as possible.

Yours sincerely,



Gavin Ion
Chief Executive



The infographic is a vertical sequence of six numbered steps, each with a corresponding screenshot of a website interface. At the top, there is a laptop icon with a wind turbine on the screen and the URL www.waikatodistrict.govt.nz/pdp.

- 1 CLICK PROPERTY RULES**: Screenshot shows a button labeled "Property rules".
- 2 CLICK PROPERTY ENQUIRY**: Screenshot shows a button labeled "Property Enquiry" with the subtext "Find out what rules apply to your property".
- 3 CLICK CONTINUE ADDRESS**: Screenshot shows a button labeled "Continue > Address".
- 4 ENTER YOUR ADDRESS**: Screenshot shows a "Step 2 Address" section with the instruction "Select the property or properties you are enquiring about" and a "Property Search" field. Below is a map with a location pin and a "55" label.
- 5 CLICK ON CONTINUE RULES**: Screenshot shows a button labeled "Continue > Rules".
- 6 CLICK ON THE RULES YOU WANT TO LOOK INTO**: Screenshot shows a "Table of Contents" with a tree structure: "Waikato Section", "Part 2 Rules", "21 Living Zone Rules", "21.1 to 21.9 Introduction", and "21.9 Prohibited Activities".

PROPOSED WAIKATO DISTRICT PLAN (STAGE 1) CHANGES

The Proposed Waikato District Plan (Stage 1) was notified on **Wednesday 18 July 2018**. From now you able to make a submission on the changes.

The Proposed Plan combines both the Franklin and Waikato sections into a single district plan with a consistent approach to development and growth across the district.

We invite you to make a submission to ensure that your views can be heard. Submissions must be made before **5pm Tuesday 9 October, 2018** by visiting www.waikatodistrict.govt.nz/pdp. Other methods are also available - visit our website or visit one of our offices or libraries for more detail.

HAVE YOUR SAY!

Tell us what you think about the Proposed District Plan:

www.waikatodistrict.govt.nz/pdp

districtplan@waikato.govt.nz



The Proposed Waikato District Plan (Stage 1) looks to streamline and enhance the way we develop and manage land and resources in the Waikato district. Key changes between the Operative Plan and the Proposed (Stage 1) include:

GROWTH AND NEW ZONES

Providing for growth by:

- Zoning additional Residential areas to provide for growth in Tuakau, Pokeno, Te Kowhai, Taupiri, Ngaruawahia and Horotiu.
- Zoning additional Village areas in Tuakau and Te Kowhai.

RURAL ZONE

- Protects high class soils for a range of productive rural activities.
- Continuing opportunities to establish intensive farming and rural industries in appropriate locations.
- Opportunities to subdivide lots for general rural purposes. Subject to date of the existing title, size and location of the proposed lots.
- Conservation lots can be created when protecting significant indigenous bush/wetland features.
- Subdivision rules enable existing titles to be reconfigured to improve the management of land and consolidate farming units.
- Subdivision rules for 'transferable development rights' have not been carried over from the Franklin Section.

COUNTRY LIVING ZONE

- No changes made to extent of the existing Country Living Zone.
- Opportunity for landowners to establish a 'minor dwelling' up to 70m² gross floor area if a primary dwelling already exists.
- Minor dwellings permitted where bulk and location conditions are met - only a building consent is required.

RESIDENTIAL ZONE

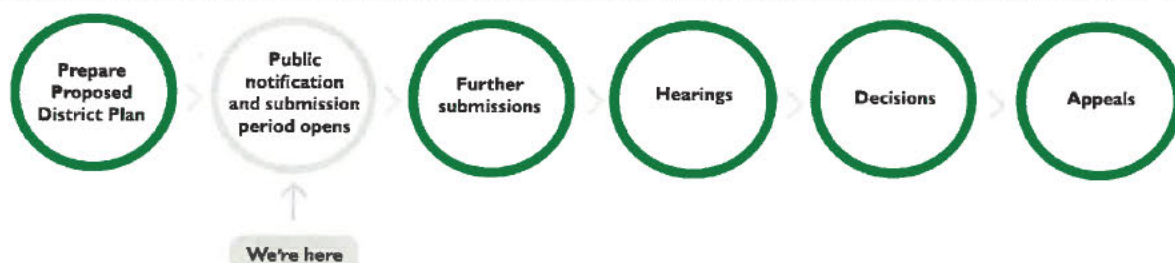
- Combines existing Residential, Residential 2, Living zones and Medium density housing area into one zone, the Residential Zone.
- Subdivision and multi-unit development guides have been developed to assist quality design and thriving communities.
- Improved housing choice has been provided (e.g. minor dwellings, multi-unit development and retirement villages).

VILLAGE ZONE

- A redeveloped Village Zone (formerly used in the Franklin District) applies to existing villages across the district, including new areas in Te Kowhai and Tuakau.
- Minimum lot sizes have altered and are now based on the availability of public services.

BUSINESS ZONE

- There are now three business zones – Business, Business Town Centre and Tamahere.
- The Business zone provides for a wide range of commercial, administrative and large scale retail.
- The Business Town Centre focuses on civic, smaller scale retail and commercial services. New buildings are to reflect Town Centre Character Statements and Design Guidelines.
- Business Zone Tamahere retains existing framework with minor amendments to reflect the approved resource consent for a new neighbourhood centre.
- Residential development is provided for above the ground floor level in Business and Town Centre zones.



INDUSTRIAL ZONE

- The number of industrial zones will be reduced from the current 8 zones to just 2 zones – the Industrial Zone and the Heavy Industrial Zone.
- Assist industrial development by removing many existing resource consent hurdles that make it difficult for investment and growth.
- Office, retail and residential activity in industrial zones will be significantly restricted.

RESERVES

- Council-owned neighbourhood parks, sports fields and natural reserves have been zoned as reserves and provisions included to provide for their ongoing use and management.
- Tamahere Reserve and Village Green existing provisions have been retained.
- Revised walkway/cycle way/bridle way networks.

INFRASTRUCTURE AND ENERGY

- New stand alone chapter for infrastructure and energy rules that apply across the district.
- Includes infrastructure activities relating to both network utility operators and land development (such as stormwater management and vehicle access requirements).
- Amended rules address the requirements of National Policy Statements and National Environmental Standards.
- Inclusion of new rules to provide for electric vehicle chargers, small and community scale electricity generation, and research and exploratory-scale investigations for renewable electricity.

TANGATA WHENUA

- Paa Zone has been blended into Maaori Freehold Land provisions applying across the district.
- The extent of sites and areas of cultural significance to Maaori have been identified and mapped across the district. Earthwork restrictions continue to apply.

BIODIVERSITY

- Boundaries of all Significant Natural Areas have been mapped and specific rules relating to vegetation clearance

- and earthworks have been included.
- Subdivision incentives have been added to encourage the protection of Significant Natural Areas.

LANDSCAPE AND NATURAL CHARACTER

- Boundaries of all landscape and natural character areas have been assessed and mapped across the district.
- Rules relating to building height and earthworks have been included.
- Subdivision within these areas will be managed.

HISTORIC HERITAGE

- Added 60 new sites having historic heritage value.
- The rules provide for the ongoing maintenance and repair of buildings and structures.
- Archaeological sites have been incorporated within the Maaori sites and areas of cultural significance.

NOTABLE TREES

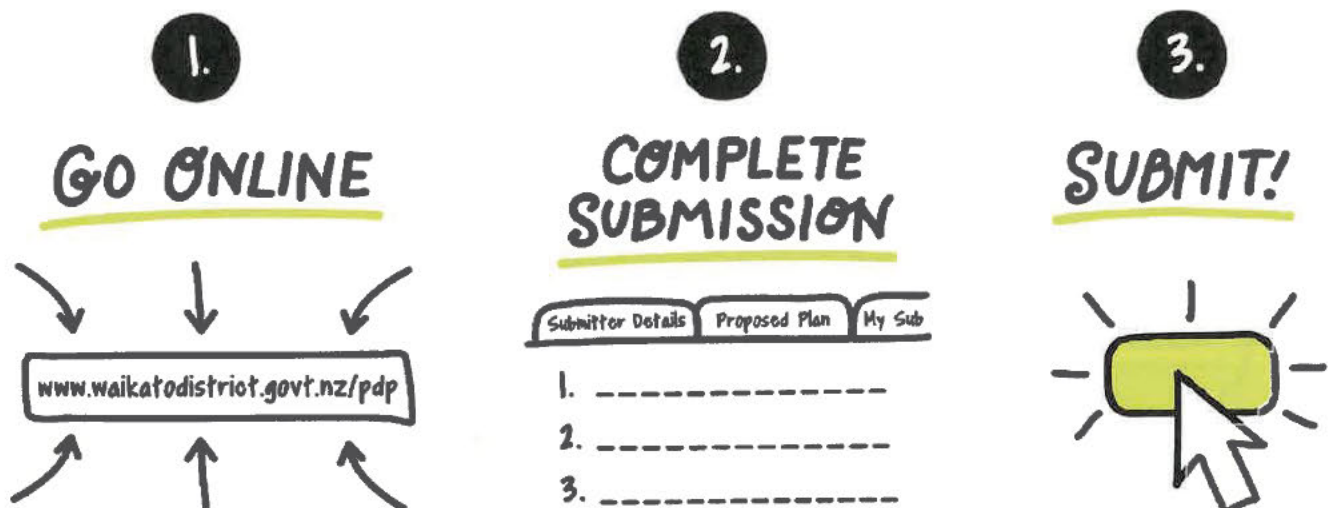
- Added 16 new trees to the list.
- The rules allow for ongoing maintenance and care, and the removal of a tree once its useful life has been reached.

HAZARDOUS SUBSTANCES AND CONTAMINATED LAND

- New rules manage hazardous substances for sensitive environments not addressed by national legislation.
- Objectives and policies for contaminated land aligned with National Environmental Standards to protect human health.

AMENITY VALUES

- Updated objectives, policies and rules to manage amenity effects, including noise, outdoor storage, hours of operation, signs, artificial light spill, temporary events and home occupation.
- Acoustic insulation standards updated to include new standards for some building in noise control areas.
- Buildings for noise-sensitive activities in noise control areas now clearly refer to appropriate acoustic insulation standards.





16 July 2018



Postal Address
Private Bag 544
Ngaruawahia, 3742
New Zealand

0800 492 452
www.waikatodistrict.govt.nz

Dear resident,

NOTIFICATION OF THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1) – CHANGES TO YOUR PROPERTY

We are writing to inform you that Stage 1 of the Proposed Waikato District Plan (the Proposed Plan) was publicly notified on Wednesday 18 July, 2018, and is now open for public submissions.

What does the Proposed District Plan mean for you?

We have identified some specific changes that apply to your property, and have set those out for you in the table below:

| Specific Changes |
|---|
| Hamilton Basin Ecological Management Area Added |
| Maaori Site of Significance Added |
| Significant Natural Area Added |

Included with this letter are two public notices. The first public notice notifies the Plan and tells you how you can have your say through the submission process. The second public notice lists the documents that the Plan incorporates into the plan rules and tells you how you can provide comment on these.

What is a district plan?

The District Plan is a key document for the Waikato district. It controls the way land is used, developed, subdivided and protected in the district. It also promotes the sustainable management of our natural and physical resources, mainly through managing growth (i.e. controlling where communities can build or expand) and managing the effects on our environment because of the way we use land. It is important to note that the effects of land use are managed differently around the district to reflect the local environmental issues.

Every council in New Zealand is required to have a district plan. These plans are important because they identify the range of activities expected in a district, where activities are expected to occur and under what limits or restrictions.

The Proposed Plan is Waikato District Council's Stage 1 review of the current Operative Waikato District Plan (Operative Plan) as required by Section 79(1) of the Resource Management Act 1991 (RMA). The Operative Plan contains a Waikato section and a Franklin section following the local government boundary changes in 2010. The review combines the Franklin and Waikato sections into a single district plan with a consistent policy and rule framework for the entire district.

Waikato District Council has been through an extensive consultation and drafting process to develop the Proposed Plan. Much has changed since the former Franklin District Plan was made operative in February 2000 and the last review of what is now the Waikato Section in 2004. There are challenges to balancing population growth while retaining the special character of the district's towns and villages. We also need to ensure that the Proposed Plan is up-to-date with what is happening in the district and incorporate changes to legislation.

Notification of the Proposed Plan is being done in two stages, with the Natural Hazards and Climate Change section (Stage 2) being notified in 2019.

An explanation of the key changes between the Operative Plan and the Proposed Plan and how they affect or impact the entire district is included with this letter.

It is important that you check to see if there are any changes to your property under the Proposed Plan, as you may wish to make a submission. Use the infographic on the website (reprinted to the right of this letter) to help you find out more about the possible changes to your property. To identify all proposed changes, throughout the district please see the Proposed Plan.

You can view the entire Proposed Plan, including the maps, on our website. It can also be viewed at each of our Council offices and libraries during office hours.

Have your say

You are encouraged to have your say by making a submission on any part of the Proposed Plan. Submissions are open from **Wednesday 18 July, 2018** and close at **5pm, Tuesday 9 October, 2018**.

If you can, please make a submission online at

The infographic is a vertical sequence of six steps, each with a numbered circle and a corresponding screenshot of the website interface. At the top, there is a laptop icon with a wind turbine symbol on the screen, and the URL www.waikatodistrict.govt.nz/pdp below it.

- 1. CLICK PROPERTY RULES**: A screenshot showing a button labeled "Property rules" with a mouse cursor clicking on it.
- 2. CLICK PROPERTY ENQUIRY**: A screenshot showing a button labeled "Property Enquiry" with a mouse cursor clicking on it.
- 3. CLICK CONTINUE ADDRESS**: A screenshot showing a button labeled "Continue > Address" with a mouse cursor clicking on it.
- 4. ENTER YOUR ADDRESS**: A screenshot of a web form titled "Step 2: Address" with the instruction "Select the property or properties you are enquiring about." Below this is a "Property Search" field and a map showing a location marked with a red pin and the number "35".
- 5. CLICK ON CONTINUE RULES**: A screenshot showing a button labeled "Continue > Rules" with a mouse cursor clicking on it.
- 6. CLICK ON THE RULES YOU WANT TO LOOK INTO**: A screenshot of a "Table of Contents" with the following items:
 - Waikato Section
 - Part 2 Rules
 - 21 Living Zone Rules
 - 21.1 to 21.3 Introduction
 - 21.2 Permitted Activities

Property Number: 2018678

www.waikatodistrict.govt.nz/pdp. An instructional video to help you make your submission is available on our website and we are planning community drop-in sessions throughout the district in August and September if you require additional support in making a submission.

Submission forms can be downloaded from Council's website or picked up from any of our offices and libraries. You can then return it to us by:

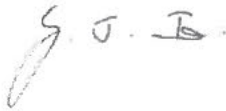
- posting it to Waikato District Council, Private Bag 544, Ngaruawahia, 3742; or
- emailing it to districtplan@waic.govt.nz.

If you would like to request a submission form be sent to you, please phone us on 0800 492 452.

As part of the review of the Operative Plan, we are looking at existing and new designations in the district (a designation is land used for public utilities such as power lines and schools). If your property is affected you will receive a separate letter regarding this.

If you have any questions please email districtplan@waic.govt.nz and a Policy Planner will respond to your query as soon as possible.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'G. J. I.', with a stylized flourish on the left side.

Gavin Ion
Chief Executive