

BEFORE THE WAIKATO DISTRICT COUNCIL HEARING COMMISSIONERS

PROPOSED WAIKATO DISTRICT PLAN

UNDER Resource Management Act 1991

IN THE MATTER Outstanding Natural Features and Landscapes, Heritage
and Cultural Landscapes.

Submitter **WAIKATO – TAINUI**

**STATEMENT OF EVIDENCE OF DONNA FLAVELL
ON BEHALF OF WAIKATO-TAINUI**

LANDSCAPES CHAPTER HEARING

21 AUGUST 2020



**Te Whakakitenga o Waikato Incorporated
PO Box 648
HAMILTON**

1 INTRODUCTION

- 1.1 Teena koutou katoa. My name is Donna Liarne Arihia Flavell. I am the Chief Executive Officer of Te Whakakitenga o Waikato Incorporated, the tribal governance entity for Waikato-Tainui.
- 1.2 My background and relevant experience is set out in my brief of evidence of 30 September 2019, presented in the Overview Hearing to the District Plan Review (**Overview Evidence**).
- 1.3 This evidence builds on the unique historical, legislative and cultural context of Te Awa o Waikato set out in my Overview Evidence, and should be read together with that evidence.
- 1.4 Relevant to my evidence in this hearing, I reiterate that I led the Waikato-Tainui team that provided technical and administrative support to the co-negotiators in the Waikato River settlement negotiations which were concluded with the enactment of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the **Waikato River Act**). I have an intimate knowledge of the Waikato River Act and the intent behind its enactment.

2 PURPOSE

- 2.1 My evidence sets out the Waikato-Tainui koorero, central to our special relationship with Te Awa o Waikato, and reflected in our settlement legislation, that supports recognition of the Waikato River as an outstanding natural landscape or feature, within the Waikato District Plan.

3 WAIKATO RIVER SETTLEMENT CONTEXT

- 3.1 The Waikato-Tainui Deed of Settlement relating to the Waikato River was ratified by the members of Waikato-Tainui and signed on 22 August 2008. Subsequent review of aspects of the co-management arrangements for the Waikato River resulted in enhanced co-management arrangements in a revised Deed of Settlement signed on 17 December 2009.
- 3.2 In the Waikato River Settlement, Waikato-Tainui and the Crown committed to a new era of co-management over the Waikato River, with an overarching purpose to restore and protect the health and wellbeing of the Waikato River for future generations.
- 3.3 The settlement also recognised the special relationship that our people have with Te Awa o Waikato. Encapsulated within the Deed of Settlement was the restoration of our ancient right of mana whakahaere (authority, rights of control), which is a concept of guardianship involving the exercise of rights and responsibilities towards the protection of the River and all its resources in a holistic way – recognising the River’s mana – Te Mana o Te Awa (the spiritual authority, protective power and prestige of the Waikato River).

4 NGAA KOORERO O WAIKATO-TAINUI MOO TE AWA O WAIKATO

The River belongs to us just as we belong to the River. The Waikato tribe and the River are inseparable. It is a gift left to us by our ancestors and we believe we have a duty to protect that gift for future generations.

Robert Te Kotahi Mahuta - 1975

4.1 Respect for Te Mana o Te Awa is at the heart of the relationship between the tribe and our Awa Tupuna (ancestral river).

4.2 Waikato-Tainui regard Te Awa o Waikato with reverence and love. It gave us our name and is the source of our tribal identity. Over many generations, Waikato-Tainui have developed tikanga which embody our profound respect for the Waikato River and all life within it. The Waikato River sustains our people physically and spiritually. To Waikato-Tainui, the Waikato River is constant, enduring and perpetual.

4.3 Te Mana o Te Awa is one of the key principles of the Waikato River settlement, which seeks respect for our Awa Tupuna. The River has its own mauri, its own spiritual energy, and its own powerful identity.

4.4 Te Mana o Te Awa is best understood in the koorero of kaumaatua, senior Kiingitanga spokesmen and esteemed kuia (some of whom have since passed on), whose remarks were reflected in the Deed of Settlement. They are statements of great importance because they embody beliefs and perspectives that are familiar to thousands of Waikato-Tainui people and other River Iwi, guiding our day to day actions.

4.5 Sir Robert Te Kotahi Mahuta:

“Ngaa awa itiiti e pa ana ki te wai o Waikato, ko ngaa uaua o to taatou awa. To taatou awa he manawa.

(All the little streams and rain that flow into the Waikato River are like the veins of the body. The River is our heart.)”

4.6 The late Mere Taka, kuia of Mangatangi marae:

“To us, the people of Tainui, the River has a very deep significance, to our way of life today. To us, Waikato is the River for cleansing oneself, of blessing, and the River... is one of our guardians ... to us, the generation of today.”

4.7 Kuia Rangihinemutu (Iti) Rawiri of Te Awamaarahi marae:

“The Waikato River is a tupuna and looks after us throughout our lives. The River feeds us, nurtures us, and takes care of us, healing our hurts and protecting us from harm. The River’s spiritual powers are as important today as they were in the past. The power of the River does not change or dwindle with the passing of the year...If people were going on a journey, they would go to the River first before leaving the area. This is still practised today. When people were sick, we would send them to the River to anoint themselves and be healed. This is still

practised today. To us, the most important thing about the River is the water's healing power.”

- 4.8 Ultimate authority and responsibility for the protection of Te Awa o Waikato was exercised by Pootatau Te Wherowhero as te awa tupuna representative, on behalf of the people, reflecting the whakataukii:

Ko Taupiri te maunga	Taupiri is the mountain
Ko Waikato te awa	Waikato is the river
Ko Te Wherowhero te tangata	Te Wherowhero is the chief
Waikato Taniwharau	Waikato of a hundred chiefs
He piko, he taniwha	At every bend a chief
He piko, he taniwha	At every bend a chief

- 4.9 This whakataukii indicates the strength of the many communities who lived along the banks of the Waikato River prior to the Raupatu (confiscation), each exercising the responsibilities of mana whakahaere in accordance with our tikanga.
- 4.10 The Ngaati Tuuwharetoa paramount chief Tukino Te Heuheu also used this whakataukii to acknowledge the mana of Pootatau Te Wherowhero during the search for a king in the 1850s. Te Heuheu confirmed Te Wherowhero as the first Maaori King.
- 4.11 Te Heuheu safeguarded the source of the Waikato River at Tapuaeharuru on the south side of Mount Ruapehu. Waikato-Tainui refers to “Te maataapuna wai o Tongariro - the headwaters of the Tongariro” – in recognition of the source of the Waikato River flowing through the waters of Taupoo te moana – the Lake, to Te Taaheke Hukahuka – the Huka Falls. From here it becomes known as the Waikato River, which flows from Te Taaheke Hukahuka to Te Puuaha o Waikato (the mouth). The historical relationship between the Houses of Pootatau and Te Heuheu is thus bound up with the Waikato River.
- 4.12 To achieve recognition of the principle of Te Mana o Te Awa, Waikato-Tainui established the concept of a korowai through the Deed of Settlement, a protective cloak laid over Te Awa Tupuna, to respect and care for the River.
- 4.13 The concept of the korowai originated from the words of kuia Ngahinaturae Te Uira, who expressed that the Waikato River Iwi are woven through whakapapa in a spiritual Korowai; we celebrate our tribal connections through the rhythms of the whenua and the awa.
- 4.14 The plaited fibres of the Korowai reflect the strands in the whakapapa which unite the iwi with Te Awa o Waikato, and with one another. The whenu (shoulder sash), which tie the korowai are held by the representatives of the Houses of Pootatau and Te Heuheu. Within the Korowai other Waikato River Iwi are represented.
- 4.15 Thus the Korowai is based in tikanga, giving effect to the tikanga of mana, whanaungatanga (kinship, relationship), kotahitanga (unity), manaakitanga (hospitality, to care for) and mana whakahaere under the leadership of the Kiingitanga.

- 4.16 The Korowai ensures that the perspective of a whole and healthy Waikato River is carried by all, including the communities of the Waikato Region.

5 THE WAIKATO RIVER ACT AND LANDSCAPE

- 5.1 The Waikato River's health and well-being was a key focus of the Waikato-Tainui Treaty of Waitangi settlement negotiations. Despite its high value to the nation, its health and well-being had never been at the forefront of any form of decision-making in the past.

- 5.2 To Waikato-Tainui, the statutory imperatives to address health and wellbeing are not limited to water quality, although this was a critical aspect of the settlement. Restoration and protection involved recognising the contribution of Te Awa o Waikato to New Zealand's cultural, social, environmental, and economic wellbeing as a matter of national importance; as well as the economic, social, cultural and spiritual connections of the Waikato Region's communities with the Waikato River, including recognition of all the Waikato River Iwi relationships with our awa.

- 5.3 Accordingly, definitions consider the Waikato River holistically, and so capture all physical aspects – the water, bed, banks, and flood plains – as well as its metaphysical being. This is acknowledged in section 8(3) of the Waikato River Act, where it states:

“The Waikato River is a single indivisible being that flows from Te Taheke Hukahuka to Te Puuaha o Waikato (the mouth) and includes its waters, banks and beds (and all minerals under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation, flood plains, wetlands, islands, springs, water column, airspace, and substratum as well as its metaphysical being. Our relationship with the Waikato River, and our respect for it, gives rise to our responsibilities to protect te mana o te Awa and to exercise our mana whakahaere in accordance with long established tikanga to ensure the wellbeing of the River. Our relationship with the River and our respect for it lies at the heart of our spiritual and physical wellbeing, and our tribal identity and culture.”

- 5.4 Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy) is the primary direction-setting document for the Waikato River, and activities within its catchment affecting the Waikato River.¹ Te Ture Whaimana commences with the tongikura that Kiingi Taawhiao, the second Maaori King, left for our people.

Tooku awa koiora me oona pikonga he kura tangihia o te maataamuri.
The river of life, each curve more beautiful than the last.

- 5.5 It is worth setting out the full description of that tongikura. It is a vision that described Kiingi Taawhiao's admiration and respect for Te Awa o Waikato as he looked upon it; it is the description of the landscape in which Te Awa o Waikato lies, and to which it is inextricably linked.

¹ Waikato River Act, s 5.

Ka maatakitaki iho au ki te riu o Waikato
Aanoo nei hei kapo kau ake maaku ki te kapu o taku ringa,
Ka whakamiri noa i toona aratau
E tia nei he tupu pua hou.

Kia hiwa ake au i te tihi o Pirongia,
Inaa, hei toronga whakaruruhau moona ki tooku tauawhirotanga.

Anaa! Te ngoto o toona ngawhaa i ngoona uma kiihai i aarika
a Maungatautari, a Maungakawa,
ooku puke maunga, ngaa taonga tuku iho.

Hoki ake nei au ki tooku awa koiroa me ngoona pikonga
He kura tangihia o te maataamuri.

E whakawhiti atu ai i te koopuu maania o Kirikiriroa,
Me ngoona maara kai, te ngawhaa whakatupu ake o te whenua
moomona,
Hei kawe ki Ngaaruawaahia, te huinga o te tangata.

Araa, te pae haumako, hei okiokinga moo taku Upoko,
Hei tirohanga atu maa raro i ngaa huuhaa o Taupiri.
Kei reira raa, kei te oroko hanganga o te tangata,
Waahia te tuungaroa o te whare, te whakaputanga moo te Kiingi.

*I look down on the valley of Waikato,
as though to hold it in the hollow of my hand
and caress its beauty,
like some tender verdant thing.*

*I reach out from the top of Pirongia,
as though to cover and protect its substance with my own*

*See how it bursts through the full bosoms of
Maungatautari and Maungakawa,
hills of my inheritance:
The river of life, each curve more beautiful than
the last.*

*Across the smooth belly of Kirikiriroa,
its gardens bursting with the fullness of good things,
towards the meeting place at
Ngaaruawaahia.*

*There on the fertile mound I would rest
my head, and look through the thighs of Taupiri.*

*There at the place of all creation...
let the King come forth.*

- 5.6 As part of the presentation of my evidence at the hearing, I intend show a video that is linked to Kiingi Taawhiao's tongikura – he maimai aroha.
- 5.7 King Taawhiao's vision, was used by Lady Raiha Mahuta in her leadership throughout the Waikato River negotiations with the Crown. For Waikato-Tainui, the Waikato River is an inseparable part of our whakapapa, whenua and identity. It is a fundamental part of what defines our very existence.
- 5.8 This view was reflected in a range of mechanisms that were developed throughout the settlement to capture a focus on the health and wellbeing of the Waikato River itself, but also to capture the activities undertaken on the whenua within the catchment that may have an impact on the health and wellbeing of the River. Te Ture Whaimana, which was developed to promote an integrated, holistic and co-ordinated approach to the management of the Waikato River, is recognised as follows:

'The vision and strategy is intended by Parliament to be the primary direction setting document for the Waikato River and **activities within its catchment affecting the Waikato River**'.

[Emphasis added]

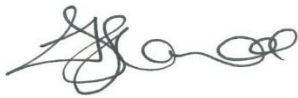
- 5.9 This view is also consistent with the purpose the Waikato River Authority (the **Authority**). It is a single co-governance entity established by statute and its roles and functions are set out in the Waikato River Act. The Authority's purpose can be summarised as follows:
- (a) provide direction through Te Ture Whaimana to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations;
 - (b) promote an integrated, holistic and co-ordinated approach to the implementation of Te Ture Whaimana and the management of the Waikato River; and
 - (c) fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-Up Trust.
- 5.10 As part of the negotiations, eight of the objectives incorporated directly into Te Ture Whaimana were developed by Waikato-Tainui.² Consistent with the tribe's holistic view of the Waikato River, the objectives are intended to ensure that the river is part of, and connected with, our whenua; that it is one landscape.
- 5.11 Attached as **Appendix One** of this brief, are the eight objectives, including an insight into the tribe's intent and vision of the River being a tupuna, and to practically promote an integrated, holistic and co-ordinated approach to the implementation of Te Ture Whaimana. I have assessed the current proposed policy against that intent.

² Objectives A, B, E, F, G H, I and M. Set out in the Agreement of Principle signed between Waikato-Tainui and the Crown, 16 December 2007.

6 CONCLUSION

- 6.1 It has been over 20 years since the Deed of Settlement in respect of the Waikato River was entered into between Waikato-Tainui and the Crown. That Te Awa o Waikato is not yet recognised as an outstanding landscape or feature within the Waikato District Plan sits starkly against the statutory recognition of our koorero in the Settlement Legislation.
- 6.2 In my view, and from the perspective of Waikato-Tainui, there is ample evidence supporting such recognition of Te Awa o Waikato. The evidence of Antoine Coffin and Gavin Donald is that tailored recognition of the Waikato River as a 'cultural landscape' might be best suited in this case. Waikato-Tainui is comfortable with bespoke arrangements for the River that meet our unique history and context as a people whose identity is defined by our Awa Tupuna. However, as with our other settlement mechanisms, those arrangements must be equivalent to or exceed the existing recognition afforded outstanding landscapes and features in the planning context.
- 6.3 I welcome the opportunity for the Waikato District Plan to reflect the Waikato-Tainui way of seeing and interacting with our Awa Tupuna.

Dated this 21st day of August 2020



Donna Flavell

CHIEF EXECUTIVE OFFICER, WAIKATO-TAINUI

APPENDIX 1: WAIKATO-TAINUI OBJECTIVES AND INTENT OF TE TURE WHAIMANA – THE VISION AND STRATEGY

TE TURE WHAIMANA
Objective A*: The restoration and protection of the health and wellbeing of the Waikato River.
Intent of Objective A*: The health and wellbeing of the Waikato River and Waikato Iwi is restored and protected to the state that existed in the time of Kiingi Taawhiao.
<p>The current proposed policy does not give effect to Objective A of Te Ture Whaimana.</p> <ul style="list-style-type: none"> • The proposed chapter does not contribute to the restoration and protection of the health and wellbeing of the Waikato River. • The proposed chapter has not applied s6(b) meaning of Waikato River or taken into consideration s8 Statement of Significance of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 during the design and development of the policy and chapter of the plan.
Objective B*: The restoration and protection of the relationships of Waikato-Tainui with the Waikato River, including their economic, social, cultural and spiritual relationships.
Intent of Objective B*: The Mana Whakahaere of Waikato Iwi is protected and restored to the state that existed in 1835.
<p>The current proposed policy does not give effect to Objective B of Te Ture Whaimana.</p> <ul style="list-style-type: none"> • The proposed chapter does not contribute to the restoration and protection of the relationships of Waikato-Tainui with the Waikato River (in its entirety). • With respect to the Resource Management Act, the Waikato-Tainui Environment Plan provides clarity to those Part 2 Matters (sections 6, 7 & 8) of relevance to Waikato-Tainui. The Plan also consolidates and describes the values, principles, knowledge and perspectives on Waikato-Tainui relationship with, and objectives for natural resources and the environment, including our whenua and our landscapes.
Objective E*: The integrated, holistic and coordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River.
Intent of Objective E*: That entities with decision making functions including central, regional and local government provide a holistic and co-ordinated approach to the management of the resources of the Waikato River and its catchment.
<p>The current proposed policy does not give effect to Objective E.</p> <ul style="list-style-type: none"> • The proposed chapter does not consider a more holistic approach to our landscape or the integrated, holistic and coordinated approach to management of the natural, physical, cultural and historic resources of our rohe. • The Waikato River has been entirely disregarded as a significant feature of our landscape.
Objective F*: The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River.
Intent of Objective F*: That entities with decision making functions including central, regional and local government go above and beyond precedence when reviewing or developing policy and/or granting authorisation for activities.

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The current proposed policy does not give effect to Objective F.

- The natural and cultural heritage of Waikato-Tainui includes the Waikato River comprising wetlands, indigenous terrestrial and aquatic flora and fauna, watercourses and the exclusion to the landscapes chapter does not represent a precautionary approach or consider the irreversible and cumulative damage possible to the existing ecosystems and the Waikato River.
- A key feature of our region includes our wetlands, which are both nationally and regionally uncommon as less than 10% of the type of wetland habitat found on the site remain in New Zealand. Wetlands are a significant part of our landscape and of course, it is the view of the iwi that it forms part of the Waikato River.

Objective G*: The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within its catchments on the health and wellbeing of the Waikato River.

Intent of Objective G*: Entities with decision making functions including central, regional and local government will avoid the adverse or potential adverse cumulative effects of their policies and authorisations within the Waikato River and its catchment.

The current proposed policy does not give effect to Objective G of Te Ture Whaimana.

- The cumulative decline, modification or loss of rare and threatened flora, fauna, wetlands and ecosystems in the Waikato rohe is part of our landscape and therefore must include the Waikato River.
- There is significant indigenous biodiversity within the Waikato District boundaries. This includes the presence of representative habitats, areas of indigenous vegetation which are regionally significant, the presence of the threatened-nationally critical Pekapeka and freshwater wetlands.
- As noted above, a key feature of our region includes our wetlands, which are both nationally and regionally uncommon as less than 10% of the type of wetland habitat found on the site remain in New Zealand. Wetlands are a significant part of our landscape and of course, it is the view of the iwi that it forms part of the Waikato River.

Objective H*: The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.

Intent of Objective H*: All decisions and actions will continuously advance the health and wellbeing of the River from the state it was at in 2008.

The current proposed policy does not give effect to Objective H.

- For the purposes of Te Ture Whaimana the Waikato River is broader than the River itself.
- Te Ture Whaimana also applies to *activities within the catchment* that affect the health and wellbeing of the river. This includes any activities across our landscapes.

Objective I*: The protection and enhancement of significant sites, fisheries, flora and fauna.

Intent of Objective I*: That existing protections for significant sites and indigenous fisheries, flora and fauna are strengthened and efforts to achieve their restoration enhanced (these must always be higher than what existed in 2008.)

The proposal does not give effect to Objective I.

- The proposed chapter does not consider a more holistic approach to our landscape or the integrated, holistic and coordinated approach to management of the natural, physical, cultural

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and historic resources of our rohe, this includes the opportunities to protect or enhance significant sites, fisheries, flora and fauna.

- The Waikato River has been entirely disregarded as a significant feature of our landscape

Objective M*: The application to the above of both maatauranga Maaori and latest available scientific methods.

Intent of Objective M*: The restoration and protection of the health and wellbeing of the River is based on Maatauranga Maaori and the latest available scientific methods.

The proposal does not give effect to Objective M.

- The proposed chapter does not provide within its scope the application of Maatauranga Maaori alongside the latest scientific methods in relation to the restoration and protection of the health and wellbeing of the Waikato River and the relationships of Waikato-Tainui with the Waikato River.
- The Waikato River has been entirely disregarded as a significant feature of our landscape