

**BEFORE INDEPENDENT HEARING COMMISSIONERS  
APPOINTED BY THE WAIKATO DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991  
(RMA)

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan

**BETWEEN** **OHINEWAI LANDS LIMITED**

Further Submitter [No. 3022]

**AND** **WAIKATO DISTRICT COUNCIL**

Local Authority

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**EVIDENCE IN REPLY OF MATTHEW WILLIAM TWOSE  
FOR OHINEWAI LANDS LIMITED**

**HEARING 27C – FLOOD HAZARDS**

**(PLANNING)**

Dated: 16 April 2021

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## INTRODUCTION

1. My name is Matthew William Twose and I am a Technical Director – Planning at Harrison Grierson Limited. I am based in Auckland, and work across the country on planning and resource management projects for a range of public and private sector clients.
2. I outlined my qualifications, experience, and commitment to comply with the Environment Court Expert Witness Code of Conduct in my evidence-in-chief in relation to Hearing Topic 25, dated 17 February 2021 (**EIC**).
3. This evidence-in-reply (**EIR**) addresses matters raised by submitters, and addressed in the Waikato District Council s.42A Report, in relation to the Flood Hazard Overlay objectives, policies and mapping. The scope of this evidence is limited to the further submissions lodged by Ohinewai Land Limited (**OLL**) to submissions on Chapter 15.

## FLOOD HAZARD OVERLAY SUBMISSIONS AND SECTION 42A REPORT

4. Two submitters sought changes to the mapping of the Flood Hazard Overlay:
  - (a) Department of Conservation (**DoC**) – seeks that the planning maps are amended to ensure all High Risk Flood Areas adjacent to lakes, wetlands and other flood infrastructure are accurately mapped and consider flood risk (1% AEP) under climate change projections.<sup>1</sup>
  - (b) Mercury Energy Limited (**Mercury**) - seeks that Lake Waikare and its surrounding catchment, where ground levels are below 8m RL (Moturiki datum) is included as Flood Plain Management Area overlay on the planning maps within the pWDP.<sup>2</sup>
5. OLL made a further submission opposing the relief sought by DoC and Mercury on the basis of insufficient information as to the mapping and location of the Flood Hazard Overlay.<sup>3</sup> The changes to the overlay potentially have significant consequences for OLL's land holdings and neither DoC nor

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<sup>1</sup> Submission 2108.14.

<sup>2</sup> Submission 2053.84.

<sup>3</sup> Further Submissions 3022.3 and 3022.2

Mercury has provided any detailed information to support their requested changes.

6. The s.42A Report recommends that DoC and Mercury's submissions be rejected as detailed modelling work has not yet been undertaken in the area, and work is to be undertaken next year by Waikato Regional Council (**WRC**) to properly assess the Lake Waikare area.<sup>4</sup> The Report further recommends that OLL's submission be accepted, and the High Risk Flood overlay is retained as notified.
7. I agree with the Reporting Planner's recommendations. The Flood Plain Management Area is the 1% Annual Exceedance Probability (**AEP**) floodplain and is identified through modelling. Further modelling is required to identify and map any additional areas of land that fall within the 1% AEP. This exercise requires extensive hydrological assessment and analysis.
8. In my view, it is not appropriate to utilise generic metrics such as the 8m RL as a substitute for this modelling exercise. As the Reporting Planner notes, including a representative line in the planning maps is inconsistent with the modelling exercise undertaken to date on the main channel. This view also appears to be shared by WRC staff, who have gone so far as to describe the 8m RL proposed by Mercury as a 'pseudo level'.
9. I acknowledge that the 8m RL has been agreed between the WDC and Ambury for their Ohinewai development site as an alternative option to Ambury's own site-specific flood modelling work to determine the 1% AEP level. This is very much an interim provision ahead of the WRC completing their work. Although appropriate, as a site-specific exercise, the adoption of the 8m RL level in lieu of a completed modelling exercise is not appropriate for inclusion in a district plan. In my view, this should be undertaken as part of a future plan change, and, in the case of Ohinewai, preferably in combination with a plan change introducing live zoning to land areas zoned as Future Urban.

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<sup>4</sup> Section 42A Report 27c, at pages 151-152.

## CHANGES TO THE FLOOD RISK OVERLAY

10. DoC sought amendments to the planning maps to ensure all High Risk Flood Areas adjacent to lakes, wetlands and other flood infrastructure are accurately mapped and consider flood risk (1% AEP) under climate change projections.<sup>5</sup> This submission was opposed by OLL.<sup>6</sup>
11. In the absence of any assessment or modelling, to identify and justify mapping changes, DoC's submission does not assist the plan review process. I agree with the Reporting Planner's comments regarding the lack of information regarding DoC's assumptions on climate change and catchment management. It is not appropriate for changes to the mapping of High Risk Flood Areas to proceed in advance of the WRC undertaking the required flood assessment and modelling work.
12. OLL's land at Ohinewai sits outside the Flood Plain Management Area Overlay and I agree with the Horticulture New Zealand's comments that any changes to these maps should occur in accordance with a clear and consistent methodology. As noted above, any changes to the maps will need to be implemented through a plan change.
13. In an extensive submission point, the WRC sought changes to the planning maps and definitions in Chapter 15.<sup>7</sup> These were opposed by OLL.<sup>8</sup> The WRC's requested changes lacked specificity or detail, and, in my view, the Reporting Planner has quite reasonably rejected the submission. I reiterate the need for any changes to the flood hazard maps to be based on completed modelling work.
14. Mercury also sought a number of amendments to the planning maps, including that areas affected by high risk flood hazards should be included within the Flood Plain Management Area<sup>9</sup>. OLL opposed this submission.<sup>10</sup> The Reporting Planner recommended that Mercury's relief be granted in part and OLL's be rejected. However, the Reporting Planner has not suggested

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<sup>5</sup> Submission 2108.16.

<sup>6</sup> Further Submission 3022.4.

<sup>7</sup> Submission 2102.9.

<sup>8</sup> Further Submission 3022.5.

<sup>9</sup> Submission 2053.1.

<sup>10</sup> Further Submission 3022.1.

any changes in relation to that recommendation. Consequently, the wording proposed appears to grant the relief sought by OLL.

### **POLICY FOR DEVELOPMENT IN FLOOD RISK AREAS**

15. I note Ambury sought amendments to Chapter 15.1 Introduction, para. [1] to acknowledge that the mitigation of risk for new development is an appropriate resource management method (as not all land uses can avoid risk generated by natural hazards).<sup>11</sup> OLL supported this submission.<sup>12</sup> Although amendments have been made to para. [1], I have not been able to find a reference in the s.42A reports which specifically addressed Ambury and OLL's submission points.
16. Mercury sought to delete and amend Objective 15.2.1.<sup>13</sup> This was opposed by OLL.<sup>14</sup> I support the rejection of Mercury's submission on account of the lack of any proposed wording. OLL did not lodge a further submission to WRC or DoC's submission points regarding Objective 15.2.1.<sup>15</sup> Nevertheless, I record my support for the deletion of the qualifier '*appropriately*', as the objective needs to clearly state the outcome sought without being encumbered with qualifiers.
17. A submission from Mercury sought to amend Policy 15.2.1.1(a) to ensure significant risk from flood events is managed, including within Flood Plain Management Areas<sup>16</sup> OLL opposed this submission<sup>17</sup> I support the recommended rejection of Mercury's submission point. Policy 15.2.1.1(a) contains a clear directive to avoid new subdivision, use and development where they will increase the level of risk in identified High Risk Flood Areas.
18. By contrast, the Flood Plain Management Areas require a broader policy response, including the ability to use mitigation options. For example, Policy 15.2.1.12 outlines a pragmatic approach to ensure new buildings located in the flood plain have sufficient freeboard. This provides for exemptions, where

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<sup>11</sup> Submission 2180.1.

<sup>12</sup> Further Submission 3022.6.

<sup>13</sup> Submission 2053.20.

<sup>14</sup> Further Submission 3022.7.

<sup>15</sup> Submissions 2108.2 and 2102.12.

<sup>16</sup> Submission 2053.21.

<sup>17</sup> Further Submission 3022.8.

buildings are sufficiently robust not to suffer damage, or are small-scale additions.

19. Mercury also requested amendments to Policy 15.2.1.6(a).<sup>18</sup> The amendments sought to extend the scope of the policy to refer to rezoning, subdivision, use and development being provided for outside of the Flood Plain Management Area. This was opposed by OLL<sup>19</sup> I agree with the reporting planner's recommendation to reject Mercury's submission point, but for different reasons. In my view, extending Policy 15.2.1.6 to encompass Flood Plain Management Areas disrupts the hierarchy in Chapter 15 wherein rezoning, subdivision, use and development is avoided in High Risk Flood areas but can occur in Flood Plain Management Areas subject to the management of adverse effects.
20. Ambury sought to amend Policy 15.2.1.15(a)(i) through the inclusion of the term '*appropriate management*' as an alternative to solely maintaining flood storage capacity of natural floodplains, wetlands and ponding areas.<sup>20</sup> OLL supported this requested wording change.<sup>21</sup> The Reporting Planner has recommended both submissions are rejected. I support this recommendation on the basis that the recommended wording changes to Policy 15.2.1.15(a) clarify the scope of the policy as being to maintain the function of the stated areas for flood management purposes.
21. DoC has sought to classify the construction of new buildings in flood management areas as a restricted discretionary activity.<sup>22</sup> OLL opposed this relief.<sup>23</sup> I agree with the reporting planner that this activity status is not necessary to ensure a minimum floor level in accordance with Policy 15.2.1.12. Where the minimum floor level is being complied with, there is no need to utilise a resource consenting process. Adopting DoC's recommended wording changes would be inefficient, as consents will be required for proposals that are not subject to any actual risk from flood. As noted above,

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<sup>18</sup> Submission 2053.26.

<sup>19</sup> Further Submission 3022.9.

<sup>20</sup> Submission 2180.3.

<sup>21</sup> Further Submission 3022.10.

<sup>22</sup> Submission 2108.15.

<sup>23</sup> Further Submission 3022.11.

Policy 15.2.1.12(a)(i)-(iii) appropriately provides for exceptions where there is no actual risk of flood damage to address.

## **CONCLUSION**

22. I consider that the submissions on Chapter 15 that I have addressed in this evidence should be accepted, accepted in part or rejected for the reasons set out above.

**Matthew Twose**

**16 April 2021**