

BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS IN THE WAIKATO REGION
I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHEKE WAIKATO

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of Proposed Variation 3 to the Waikato Proposed District Plan (PDP)

STATEMENT OF EVIDENCE OF GILES CRAWFORD BOUNDY ON BEHALF OF TUURANGAWAEWAE
MARAĒ AND TE WHAKAKITENGA O WAIKATO (WAIKATO-TAINUI)

(Planning)

Dated 7 July 2023

1.0 Introduction

- 1.1 My full name is Giles Crawford Boundy. I am a Principal Consultant at GMD Consultants Limited. I have over 13 years' experience in resource management and environmental planning. My experience has primarily been in the Waikato District and Region working with and assisting councils and iwi in plan development and implementation.
- 1.2 I was previously employed at Waikato District Council as a Senior Environmental Planner, and prior to this as Council's Reserves Planner. During this time, I was involved in the development of Reserve Management Plans, and structure plans. Latterly, I led the development of a number of topics for the Waikato Proposed District Plan (PDP) from 2014 to the point of notification in 2018. This included biodiversity, landscape and reserve topics and their associated provisions. I was also involved a number of 'urban' components of the Proposed District Plan including matters relating to multi-unit development and urban design.
- 1.3 For the past 4 years, I have been employed at GMD Consultants Ltd. Amongst other projects;
- a) As part of the PDP hearings process and subsequent to the submission period, I supported Waikato-Tainui in working alongside council staff to develop the Maaori Values and Maatauranga chapter, Te Ture Whaimana Chapter as well as the re-working of the provisions for Maaori Land which are now contained in a Maaori Land Chapter;
 - b) I have provided planning evidence on behalf of Raukawa Charitable Trust on South Waikato District Plan Change 1 (Putāruru Growth) and 2 (Infrastructure Management);
 - c) I have assisted Future Proof in the reporting of industrial land supply as part of the requirements of the then NPS-UDC;
 - c) I am providing planning support as part of a project team tasked with the review of Te Ture Whaimana o Te Awa o Waikato;
 - d) I am providing planning support to Waikato Regional Council in the review of their review of the Waikato Regional Plan.
- 1.4 I hold a Bachelor of Resource and Environmental Planning honours degree from Massey University.

2. Code of Conduct

- 2.1. Although this is a Council hearing, I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

3. Conflict of interest

- 3.1 As addressed in paragraph 1.2 above I was employed with Waikato District Council and during this time was involved in the drafting of the Proposed District Plan¹. Part of my role included the development of provisions for Outstanding Natural Features and Landscapes which included supporting the development of the Waikato District Landscape Study where my contribution is acknowledged. As further noted in paragraph 1.3 above my more recent planning support following the notification of the PDP was for Waikato-Tainui and working alongside Council staff. My previous involvement in the PDP may be viewed as a perceived conflict of interest. I note I have not contributed to the development of Variation 3 as notified. I therefore do not consider this a real conflict of interest and I consider my familiarity with the PDP, would only serve to assist the Independent Hearing Panel (IHP).

4. SCOPE OF EVIDENCE

- 4.1 My evidence addresses the analysis and recommendations contained within the Variation 3 42A report. I have structured my evidence in a manner that generally corresponds with the topics of that report. To that end my evidence addresses the following in order:
- a) Geographic extent of provisions and zoning
 - b) District Plan provisions
 - c) Te Ture Whaimana o te Awa o Waikato Qualifying matter
 - d) Tuurangawaewae Surrounds Qualifying matter
 - e) Historic Heritage Qualifying Matter
 - f) Natural Hazards Qualifying Matter.
- 4.2 I attended both the water and wastewater conferencing and Tuurangawaewae Marae cultural viewshafts conferencing and note my agreement as contained in the Joint Witness Statements. I will also be attending Stormwater Conferencing taking place after this evidence is submitted.
- 4.3 My evidence is on behalf of both Tuurangawaewae Marae and Te Whakakitenga o Waikato (Waikato-Tainui). The entirety of my evidence relates to matters associated with the submission and further submission of Waikato-Tainui. I note paragraphs 5.1 to 5.5, 6.1 to 6.2, 10.1 to 10.28, 13.1 to 13.3 relate to matters raised within the Tuurangawaewae Marae submission.

5. Executive Summary

- 5.1 I consider that the relevant statutory considerations are addressed as necessary in the S42A Report. In addition, I consider however that the evidence provided by Mr. Julian Williams as part of Plan Change 12 relating the Waikato-Tainui Raupatu Claims (Waikato River) Settlement

¹ This is noted in the JWS for the conferencing on Cultural Viewshafts

Act 2010, including its genesis and background will provide useful to the IHP in making decisions on Variation 3.

- 5.2 I agree with much of the analysis and recommendations of the S42A Report. I specified where I agree with the S42A Report analysis and recommendations. I have also specified where I am where I consider additional plan provisions are necessary, notably around advancing the recommendations of Mr. Mansergh regarding cultural view shafts for Tuurangawaewae Marae.
- 5.3 For the Tuurangawaewae cultural viewshafts matter, I consider there are two matters from the evidence of Mr. Mansergh that have not been advanced through the S42A Report these being, the reference and recognition of the Waikato River as forming part of the culturally significant viewshaft from Tuurangawaewae Marae and assessment criteria.
- 5.4 Given the limited scope of Variation 3 being an IPI and in the context of the Waikanae decision, the recommended amendments to Variation 3 contained in the S42A Report do not however address the concerns raised by Tuurangawaewae regarding the outlook from the marae in full. To address this matter, I consider an appropriate planning response is for Council to investigate a plan change or plan variation which considers heights more similar to the Operative District Plan for the for the area surrounding Tuurangawaewae Marae.
- 5.5 Similarly, there remain other matters which have been identified through the S42A Report, evidence and matters raised by submitters relating to provisions of the PDP which in my view should be further investigated and where necessary considered through a plan change or variation process these being papakainga housing on general land and improved stormwater provisions, including to address Te Ture Whaimana and Te Mana o te Wai.

6. Statutory Context

- 6.1 I consider that the S42A Report sets out the relevant statutory considerations at length and addresses what I can see are the relevant matters. I therefore do not see value in repeating this task. I do however briefly want to acknowledge the Acts, National Policy Statements and planning documents set out in the S42A Report which are particularly relevant to the context of my evidence as follows:
- a) The RMA (including Qualifying matters)
 - b) Te Ture Whaimana o Te Awa o Waikato
 - b) National Policy Statement on Urban Development 2020
 - d) National Policy Statement for Freshwater Management 2020
 - e) Waikato Regional Policy Statement
 - f) Future proof 2022
 - g) Iwi planning documents
- 6.2 In addition to the matters set out in the section 42A report, I consider there is important context and background for the IHP on the Waikato-Tainui Raupatu Claims (Waikato River)

Settlement Act 2010, its genesis and underlying principles and Te Ture Whaimana that has been addressed in the evidence of Mr. Julian Williams presented during the strategic hearing on Hamilton City Council Plan Change 12.

7. Geographic Extents of Provisions and Zones (Topic 1)

High density zoning and Town Centre zone heights

- 7.1 Regarding High Density Zoning and Town centre zoning promoted in the Kāinga Ora Submission, I understand that Kāinga Ora are not pursuing the relief sought in their submission in regards to seeking a High Density Zone for Ngaaruawaahia and increased Town Centre Zone heights at Ngaaruawaahia.
- 7.2 I agree with the recommendations of the S42A Report relating to High Density Residential Zones and Town Center Zone heights. In my opinion Ms. Hill provides clear, robust, and detailed analysis which supports her recommendations on these matters.

Towns where the MDRS applies

- 7.3 I agree with the recommendation of the S42A Report as regards to the MDRS not applying in Raglan and Te Kauwhata². I further agree with the Planning Report analysis being that whilst these towns are urban, they are outside the hinterland of Hamilton and Auckland Respectively³ and do not appear to meet the second leg of the definition of 'urban environment' in s77F of the Act.

Zoning and minimum lot sizes within the former 'urban fringe'

- 7.4 Likewise, I agree with the recommendations to retain the PDP zoning pattern and associated analysis, including and that submissions seeking re-zoning in these towns as not being scope within Variation 3 being an IPI process.
- 7.5 I also agree with the recommendations of the S42A Report as regards retaining a minimum 450m² area be introduced into the 4 towns in the areas that were previously defined as the 'urban fringe' in particular given, the significant capacity above projected demand and the limited demand for apartment living⁴.
- 7.6 I also agree with the S42A Report in rejecting submissions seeking specific zoning changes zoning. Beyond the matter of scope, I consider that such requests would be better considered through other plan change processes and that individual submitters may wish to participate in current structure plan processes where relevant.

8. District Plan Provisions - Amendments to the MDRS and other Standards (Topic 1)

Cultural values as a matter of discretion – MRZ2-S1, MRZ2-S2 and MRZ2-S3

² At Paragraph 119 of the s42A Report.

³ At Paragraph 102 of the s42A Report

⁴ At Paragraph 111 of the S42A Report

- 8.1 Regarding the Waikato-Tainui Submission⁵ which seeks the effects on cultural values as a matter of discretion in Rules MRZ2-S1, MRZ2-S2 and MRZ2-S3 the S42A Report sets out at paragraph 287 the following:

'I agree with Waikato Tainui that effects on cultural values can be important considerations for certain applications. Despite this I do not consider that the recommended blanket approach of including matters of discretion relating to cultural values will be appropriate. In my view it will be difficult for Council officers to make an assessment regarding cultural values for all applications and specialist input would be required. In my view this is unreasonably burdensome given that the majority of resource consent applications that breach MRZ2-S1, S2 and S3 will be located in established areas that have already been developed. I further note that the known and identified sites and areas of significance to Maaori are protected within the PDP from adverse effect of development or activities on those sites. For these reasons I recommend that the submission points from Waikato Tainui be rejected (#114.1, #114.11 and #114.12).'

- 8.2 In my opinion consideration of cultural values being difficult for council officers to consider or likely necessitating specialist input should not, in itself, detract from cultural values being included as a matter of discretion. I also consider that Sites and Areas of Significance to Maaori (SASM) identified in the plan are not the sole indicator for cultural values. In this regard I also understand that it is common for known sites of significance and areas not to identified or documented district plans.
- 8.3 I consider the Maaori Sites of Significance and Maatauranga Maaori Chapter provides a useful framework of values for consideration. To that end amending MRZ2-S1, MRZ2-S2 and MRZ2-S3, referring to that Chapter via a matter of discretion, as has been recommended for addition in MRZ2-S13 (Building setbacks – water bodies) at paragraph 422 of the S42A Report of the report as follows would be an effective and, in my view, further assist planners when implementing the plan.
- 8.4 I therefore suggest the following additional matter or discretion for MRZ2-S1, MRZ2-S2 and MRZ2-S3:

Effects on cultural values identified in Maaori Values and Maatauranga Maaori Chapter.

- 8.5 An alternative approach could be a matter of discretion addressing the effects on values held by mana whenua including as identified through cultural impact/values assessment and relevant iwi planning documents. I note that this approach as was adopted in the PDP for Discretionary and Non-complying activities generally across the plan in MV-R3(1) which reads as follows:

MV-R3 (1) All discretionary and non-complying activities in Part 2 – Districtwide matters and Part 3 – Area-specific matters sections of this Plan must address:

⁵ Submission 114.1, 114.11 and 114.12

- (a) *The effects on values held by mana whenua and the appropriateness to mana whenua of any avoidance, mitigation or enhancement measures including as identified through cultural impact/values assessments and any relevant iwi planning document.*

8.6 I consider that each of the two approaches, referring generally to the Maaori Values and Maatauranga Maaori Chapter more generally or a matter of discretion, would efficiently and effectively provide planners both the guidance and discretion to address cultural values to the degree they are relevant to a given proposal.

Subdivision

8.7 I agree with the analysis and recommendation of the S42A Report regarding policy SUB-P3(3) to include an exception regarding qualifying matters. I note that the policy is framed by the term enable which is indicative of a particularly permissive or favourable view. For areas where a qualifying matter applies, I acknowledge that medium density outcomes may be achieved but generally not to the same extent as provided for in the MDRS. I also consider this amendment provides clearer policy direction or distinction between the more enabling rules that apply in absence of a qualifying matter and the instances where rules with qualifying matters apply.

8.8 I further support retaining policy SUB-P23 as notified. I consider this policy appropriately recognises qualifying matters. SUB-P23 is reads as follows:

SUB-P23 Subdivision in the MRZ2 – Medium density residential zone 2

(1) Provide for subdivision that supports the development of medium density residential development as a controlled activity within the MRZ2 – Medium density residential zone 2, except where:

- (a) There is a relevant qualifying matter; or*
(b) The proposed subdivision does not comply with the relevant subdivision standards.

(2) Require subdivision within the MRZ2 – Medium density residential zone 2 to not compromise any qualifying matters applied to the site.

Papakaainga

8.9 As addressed in Paragraph 1.3 above I provided planning support to Waikato-Tainui in working with Council during the PDP hearing to develop a chapter for Maaori Land in the District. Much of this chapter is framed around enabling provisions for Papakaainga development and a range of other activities on Maaori Land.

- 8.10 I understand the PDP approach is distinct from others in the region, and notably both Matamata Piako District Council⁶ and Waipā District Council⁷ who are approaching the matter primarily through a zoning-based approach.
- 8.11 Notwithstanding the different approaches as to how papakaainga development is enabled, both Matamata Piako District Council and Waipā District Council are addressing the matter of general land owned by Maaori. The PDP does not specifically provide for Papakaainga development where land is not defined as Maaori Land. I consider this may prove to be a gap for enabling papakaainga.
- 8.12 I consider that there is merit, outside of Variation 3, for Council to consider and investigate provisions which enable papakaainga development on general land along. I say outside of Variation 3 given the matter extends beyond the 4 towns to settlements and rural areas, and further as this process would require targeted engagement with mana whenua at the very outset to understand aspirations.
- 8.13 In my view any such investigation should however should not detract from the existing provisions of the plan and efforts of Council in working with other iwi, mana whenua and other agencies to enable and support papakaainga housing development which I understand is now part of Councils BAU.

9. Qualifying Matters – Te Ture Whaimana o Te Awa o Waikato (Topic 3)

- 9.1 I agree with the S42A Report where it considers that improvement can be made to the PDP rule and policy framework. I likewise I agree with the S42A Report e that when Te Ture Whaimana was considered through the PDP review that this was not within context of the MDRS.
- 9.2 I consider that the recommendations and amendments at paragraph 545 and the associated amendments contained in Appendix 2 of the S42A Report being the additions to TETW-P1(g) to address residential development, additional matters of discretion for MRZ2-13 and MRZ2-S1, and in context Variation 3, are necessary and appropriate to give effect to Te Ture Whaimana.
- 9.3 For the benefit of the IHP, my understanding of the metrics of the building setbacks – waterbodies rules is the same as noted at Paragraph 540 the S42A Report, being the general setback of the zone plus 25m. In addition, it is further my understanding that this approach to determining setbacks is derived from that in the Operative District Plan, and that the 25m metric caters for and aligns with the esplanade reserve width requirements for the Waikato River and Waipaa River.
- 9.4 I consider that outside of Variation 3, and in broader context of the PDP, the matter of setbacks from the Waikato River would benefit from further consideration. In my view a particular matter is whether a greater setback should equally be afforded to the ‘Waikato River’ as more broadly defined in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. I do acknowledge however that setbacks are one part of the package in which the PDP

⁶ Papakāinga Plan Change 54

⁷ Draft Plan Change 23 - Papakāinga

implements Te Ture Whaimana and that practice in implementing Te Ture Whaimana is evolving.

10. Qualifying Matters - Tuurangawaewae Cultural View Shafts (Topic 3)

- 10.1 I note that paragraphs 394 to 413 of the S42A Report of Ms. Hill provides analysis on matters relating to Tuurangawaewae Marae Cultural viewshafts arising from submissions and further submissions.
- 10.2 Of relevance for this section of my evidence is that post the release of the S42A Report, Mr. Mansergh's evidence, and following visiting Tuurangawaewae Marae, Kāinga Ora have confirmed that they are not pursuing a High Density Zone at Ngaaruawaahia or the Town Centre Zone height variation of 24.5m at Ngaaruawaahia as sought in their submission. I understand that they will address this matter through evidence.
- 10.3 Like Ms. Hill⁸ I am not qualified to speak of the historical, cultural, and spiritual significance of Tuurangawaewae Marae nor of the importance of maintaining the relationship between the Marae, the Waikato River, Haakarimata Range and Taupiri Maunga. These matters are most appropriately addressed through cultural evidence. These matters are addressed in the evidence of Mr. Kukutai.
- 10.4 As addressed at paragraph 397 of the S42A Report the cultural significance of Haakarimata Range and Taupiri Maunga as follows:
- 397. The cultural significance of the natural features is recorded in SCHED5 Outstanding natural features and landscapes of the PDP. That schedule identifies the Haakarimata Range and Taupiri Maunga as outstanding natural features and the Waikato River as an outstanding natural landscape. SCHED5 also explains the cultural significance of the features and landscapes and identifies the Haakarimata (sic) and Taupiri Ranges as having very high cultural values and the Waikato River as being of the utmost importance to Waikato Tainui.*
- 10.5 In addition to the above I note that the extent of these scheduled features are shown on the PDP maps. I further note that the Waikato River is identified as an Outstanding Natural Landscape to which Tuurangawaewae Marae fronts.
- 10.6 Further to the material contained in Schedule 5 of the PDP, Mr. Kukutai provides explanation of cultural values and significance of the Haakarimata, Taupiri Maunga and the Waikato River. I defer to him on these matters.
- 10.7 As with matters of cultural, historic, and spiritual significance, I am not an expert in the field of landscape or visual assessment and for those matters I defer to the evidence of Mr. Mansergh. From my view I note that Mr. Mansergh has gone a considerable distance to extend his assessment to include cultural considerations, reflecting on recent best practice guidance from his institute⁹. From conferencing on this topic, I understand that landscape assessment has evolved in regards to how cultural values and components are addressed from the approach

⁸ At Paragraph 396 of the s42A Hearing Report Version 2

⁹ At Paragraphs 58 to 67 of Mr. Mansergh's evidence

of Waikato District Landscape Study which underpins the identification of landscape features in the PDP.

- 10.8 From the conferencing on cultural view shafts it is my understanding that both Mr. Mansergh and Ms. Hill would find, in addition to the information available in Schedule 5 of the PDP and the associated Waikato District Landscape Study, cultural evidence as valuable in informing their analysis and recommendations.
- 10.9 Whilst landscape matters and visual assessment are outside of my area of expertise, I generally agree with how the recommendations of Mr. Mansergh have been adopted by Ms. Hill in her S42A Report. There are however two matters addressed in the evidence of Mr. Mansergh that I do not see as being advanced through planning provisions recommended by Ms. Hill in the S42A Report. These are:
- a) the reference and recognition of the Waikato Awa as forming part of the culturally significant viewshaft from Tuurangawaewae Marae¹⁰ and,
 - b) additional assessment criteria referred to in the recommendations of Mr. Mansergh¹¹
- 10.10 In addition to the two matters stated above, a further matter outstanding is that that neither Mr. Mansergh or Ms. Hill go as far to recommend that Council consider a plan change/variation outside of Variation 3 to more fully address the concerns of Tuurangawaewae Marae.

The Waikato Awa as forming part of the culturally significant viewshaft

- 10.11 Mr. Mansergh's evidence (at paragraph 163), references the Waikato Awa as forming part of the culturally significant view from Tuurangawaewae Marae as follows (emphasis added):

163. I have considered how the cultural view shafts from Tuurangawaewae might be protected through the district planning process and have reached the conclusion that it would be better to manage the view shafts as follows:

- a) Identify the existing view shaft between Tuurangawaewae and the Haakarimata Range, Taupiri Maunga and the **Waikato awa** as a culturally significant view shaft.*
- b) Protect the existing cultural view shaft by placing controls over the permitted development parameters for properties where development is likely to introduce into the cultural view shaft.*
- c) Introduce assessment criteria to ensure that the effects of any restricted discretionary or discretionary application on the cultural view shafts are considered.*

- 10.12 In regard to point a) above I note that Ms. Hill does not include the Waikato Awa as regards the matter of discretion which she recommends for addition to Rules MRZ2-S2, MRZ2-S3 and MRZ2-S5 which reads as:

In addition, within the Tuurangawaewae Marae surrounds QM: The effect on cultural viewshafts from Tuurangawaewae Marae to Hakarimata Range and Taupiri Maunga

¹⁰ At a) of Paragraph 163 of Mr. Mansergh's evidence.

¹¹ At c) of paragraph 163 of Mr. Mansergh's evidence.

- 10.13 On this matter I note the evidence of Mr. Kukutai addresses to the Awa, Taupiri, Haakarimata and their significance to Tuurangawaewae Marae.
- 10.14 On the basis of the evidence of Mr. Kukutai, I consider that the additional matter of discretion added to Rules MRZ2-S2, MRZ2-S3 and MRZ2-S5 should be amended to include the Awa as follows (additions and deletions in underlined text and strikethrough):

In addition, within the Tuurangawaewae Marae surrounds QM: The effect on cultural viewshafts from Tuurangawaewae Marae to Haakarimata Range, ~~and~~ Taupiri Maunga and the Waikato Awa.

Additional assessment criteria

- 10.15 Mr. Mansergh recommends assessment criteria, in addition to matters of discretion to MRZ-S2 (Height- building general), MRZ2-S3 (Height in relation to boundary) and MRZ2-S5 (Building coverage). I have referenced this in my paragraph 10.11 above.
- 10.16 I take assessment criteria as addressing areas beyond Area D identified in his evidence and as further shown in Figure 27 of the Planning Report (at pg. 150). Mr. Mansergh and Ms. Hill may wish to clarify this in rebuttal. For the benefit of Mr. Mansergh, Ms. Hill and the IHP I will explore the matter of assessment criteria further.
- 10.17 To my knowledge the PDP and does not utilize assessment criteria but instead, for controlled and restricted discretionary activities, uses specified matters of control and discretion respectively.
- 10.18 As regards discretionary activities and non-complying activities in the PDP I note MV-R1¹² as follows applies which I consider could be more generally conceived as assessment criteria. MV-R1 is as follows:

(1) All discretionary and non-complying activities in Part 2 – Districtwide matters and Part 3 – Area-specific matters sections of this Plan must address:

(a) The effects on values held by mana whenua and the appropriateness to mana whenua of any avoidance, mitigation or enhancement measures including as identified through cultural impact/values assessments and any relevant iwi planning document.

- 10.19 It is also my understanding that neither Variation 3, nor the recommended amendments to plan provisions contained at Appendix 2 of the S42A Report use or reference “assessment criteria”. I note the S42A Report uses the term in various parts of analysis and in recommendations, but these references appear to correlate with where “matters of discretion” are used in Appendix 2 of the S42A Report. I consider that the s42A authors are best placed to clarify and correct this matter.
- 10.20 In absence of the PDP or Variation 3 utilising assessment criteria¹³ and given that MV-R1 does not apply to the Restricted Discretionary building height, height in relation to boundary and

¹²I note MV-R1 is subject to appeal.

¹³It is my understanding that neither the Notified Variation 3 nor the recommended amendments contained at Appendix 2 of the s42A report use or reference “assessment criteria”. I note the s42A report uses the term in various parts of analysis and in recommendations, but I expect this is in relation to “matters of discretion”.

building coverage rules I consider there would be a gap in addressing cultural values in instances outside of Area D where building height and potentially building coverage and height in relation to boundary are exceeded.

- 10.21 For Rules MRZ2-S2, MRZ2-S3 and MRZ2-S5 I consider that a broader matter of discretion applying outside of Area D to at least the potential effects area shown on Figure 27 would address the apparent gap between the evidence of Mr. Mansergh and Ms. Hill and that this could be as follows:

The effects on cultural values as informed by the outlook of the Waikato River, Haakarimata Range and Taupiri Maunga when viewed from Tuurangawaewae Marae.

- 10.22 For Rules MRZ2-S2, MRZ2-S3 and MRZ2-S5 I consider that this would be further supported by reference back to the Maaori Values and Maatauranga Maaori Chapter of the PDP as is the case for the recommended additions in the S 42A report Building setbacks – water bodies rule MRZ2-S13¹⁴ and as I have suggested in 8.4 above.
- 10.23 I note that the Maaori Values and Maatauranga Maaori Chapter of the PDP, in addition to setting out kaitiakitanga, manaakitanga, tikanga and mana whakahaere as values, sets out that values will vary across the District and recognises that cultural values will be identified by mana whenua at a local level. This is addressed in MV-P4 which reads:

MV-P4 Recognition of Maaori values.

(1) Recognise Maaori values, including the following:

(a) Kaitiakitanga;

(b) Manaakitanga;

(c) Tikanga; and,

(d) Mana whakahaere.

(2) Recognise that Maaori values will vary across the district and that Maaori values additional to those in (1) above can be identified through engaging with mana whenua at a local level.

Considering a plan change for the matters outside of scope of Variation 3

- 10.24. I wish to highlight the evidence of Mr. Mansergh at Paragraphs 160 to 162 states:

160. It should be noted that my recommendations do not fully address the issues raised in the Tuurangawaewae Marae submission. This would require a reduction in the height, building coverage and height in relation to boundary parameters which I understand is outside of the scope of Variation 3.

¹⁴ At paragraph 422 of the S42A Report.

161. *If “scope” was not a factor, it is my opinion that the concerns raised in the Tuurangawaewae (and other similar) submissions would be better addressed if the building envelope parameters within the areas identified as “D” on my recommendation plan (Map 21) were equivalent to the GRZ provisions contained in the ODP. This would mean that the existing cultural view shaft and height-to-width ratios that characterise the urban area immediately adjacent to the Marae would remain relevantly unchanged.*

162. *It is however my understanding that this option is not able to be considered as part of the IPI process and could only occur through a separate plan change process.*

10.25 These matters raised by Mr. Mansergh are addressed by Ms. Hill at paragraph 412 of her s42A addresses the matters above as follows:

412. *I understand from Mr Mansergh that the standards proposed for Area D to the north of the Marae are not the ideal to maintain the existing viewshafts, but are recommended in order to comply with the principle from the Waikanae decision that any standards introduced through an IPI cannot be less enabling of the standards in the PDP. The properties in Area D north of the Marae are zoned Medium Density Residential in the PDP. Ideally a height limit lower than 11m, closer to 8m, as provided for in the Operative Plan and the PDP General residential zone is required. As this lower height limit is more restrictive than the PDP a future variation / plan change will be required to achieve this outcome in this location.*

413. *In the interim I recommend adding a new qualifying matter into the PDP to maintain the height, height in relation to boundary, and coverage standards that currently exist in the PDP medium density zone...*

10.26 Like Ms. Hill and Mr. Mansergh, I see the concerns of Tuurangawaewae Marae will not be resolved through Variation 3 given the Waikanae decision¹⁵. I note that neither Ms. Hill nor Mr. Mansergh go as far as recommending a plan change be investigated to address the matter of reduced heights.

10.27 I expect that that Mr. Mansergh and Ms. Hill will want to reflect on these matters and may wish through rebuttal to reconsider their recommendations. In this regard I also note that elsewhere the S42A Report has made similar recommendations to advance matters outside of the scope of Variation 3¹⁶. I also note that Mr. Baldero, stormwater expert for the Council, has equally reported and recommended matters for Council to consider outside of Variation 3¹⁷. Regarding reduced heights surrounding Tuurangawaewae Marae, I consider investigating a plan change to be an appropriate response on the evidence at hand.

10.28 As a concluding note on this matter, whilst I accept that the IHP is limited by the scope of Variation 3, some reflection in the final decision report on what might be seen as the remaining gaps of in the PDP from the wide range of matters raised through Variation 3 would in my view

¹⁵ [2023] NZEnvC 056 Waikanae Land Company Limited v Heritage New Zealand Pouhere Taonga

¹⁶ See for example recommendation at Paragraph 449 of the Section 42A Report which addresses amongst other matters the appropriate zoning around The Point and Tuurangawaewae House in Ngaaruawaahia.

¹⁷ Paragraph 60 of the evidence of Mr. Baldero.

benefit Council in their forward planning as they keep the PDP live. In my view this would also better address the concerns of submitters and matters recognised by experts which cannot be picked up through Variation 3.

11. Qualifying Matters – Historic Heritage (Topic 3)

The Point and Tuurangawaewae house

- 11.1 Paragraph 445 of the S42A Report relates to The Point and Tuurangawaewae House and reflects on the Evidence of Dr McEwan and reads as follows:

445. In relation to the area around the Point Ngaaruawaahia, I note Dr McEwan has recommended the blocks bound by Herschel, Eyre, and Durham Streets and Broadway and Sampson Streets in Ngaaruawaahia should have a qualifying matter applying to them which would retain the provisions of the GRZ. Dr McEwan considers that the historic and cultural values of The Point and Tuurangawaewae House are of such significance that intensification should be limited. While I do not disagree with Dr McEwan, I note the blocks referred to are already zoned medium density in the PDP decisions version (refer map below). It is my understanding a Council cannot use the IPI process under the Enabling Housing Act to remove or restrict development rights that already exist in a district plan (Waikanae decision). On this basis it is my opinion it is not possible to amend the PDP in the way that Dr McEwan is recommending seeking through the IPI process. Furthermore, mana whenua and adjoining landowners will need to be consulted as part of any future district plan process.

- 11.2 I agree with this analysis and the recommendation at paragraph 449 which identifies that, separate to Variation 3, Council should re-consider the appropriate zoning around The Point and Tuurangawaewae House. However, I wish to re-iterate the need for engagement and consultation with mana whenua on this matter given the significance of this area.

12. Qualifying Matters – Natural Hazards (Topic 3)

- 12.1 I agree with the recommended amendments¹⁸ suggested in the S42A Report regarding MRZ2-S10 where she suggests the following additional matters of discretion:

(c) stormwater management and the use of Low Impact Design methods

(d) the objectives and policies in Chapter 2-20 Te Ture Whaimana – Vision and Strategy

(e) the effects of any on-site stormwater retention or detention devices

- 12.2 I further support the additional assessment criteria to SUB-R153. I see the new (k) regarding low impact design and (l) regarding addressing the objectives and policies of Chapter 2-20 of the PDP as together further enabling implementation of Te Ture Whaimana.

- 12.3 Regarding flooding and stormwater, I will be attending the conferencing on 11 July. For the time being, I support the approach of Ms. Hill being adopting 9 initial recommendations at paragraph 504 to 512 of the S42A Report. As it stands, I further agree with her recommendation

¹⁸ At Paragraph 501 of version 2 s42A report (updated 19 June 2023).

that outstanding matters that have been raised by stormwater experts and addressed at Paragraph 513 should be considered as part of separate planning process.

13.0 CONCLUSIONS

- 13.1 I consider that the relevant planning (statutory) framework is appropriately articulated in the S42A Report for Variation 3. I do however note that a more fulsome account of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 is provided in the evidence of Mr. Julian Williams presented on behalf of Hamilton City Council which the IHP heard during the strategic hearings. I consider that this is also important context for Variation 3.
- 13.2 I agree with much of the analysis and recommendations of the S42A Report. I have specified where I agree with the S42A Report analysis and recommendations. I also consider amended and additional plan provisions are necessary, notably around advancing the recommendations of Mr. Mansergh regarding cultural view shafts for Tuurangawaewae Marae.
- 13.3 I consider part of advancing the recommendations and matters raised by Mr. Mansergh should be addressed through investigating a plan change for reduced heights in the vicinity surrounding Tuurangawaewae that are more equivalent to that under the Operative District Plan.
- 13.4 The four towns subject to Variation 3 are all within the Waikato River Catchment. Overall, I consider that the recommendations of the S42A Report provide for appropriate and necessary recognition and implementation of Te Ture Whaimana within the scope of Variation 3.
- 13.5 To that end, I recognise the limited scope of Variation 3 (being an IPI) will influence the ability of the panel to address the relief sought by submitters and matters raised by experts. Here there are matters which Council should reflect on, alongside iwi partners and mana whenua. These include papakaainga housing on general land and improved stormwater provisions, including to address Te Ture Whaimana and Te Mana o te Wai.

Giles Boundy

7 July 2023