

# **WAIKATO DISTRICT COUNCIL**

**Hearings of Submissions on the Proposed Waikato District Plan**

**Report and Decisions of the Waikato District Plan Hearings Panel**

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## **REPORT 1 Raglan Landward Navigation Beacon**

**31 July 2020**

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### **Commissioners**

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Councillor Jan Sedgwick

Councillor Janet Gibb

Mr Dynes Fulton

Ms Linda Te Aho

Mr Weo Maag

## **1 Introduction**

- 1.1 Stage 1 of the Proposed Waikato District Plan (PDP) was notified on 18 July 2018. This encompassed the review of all provisions of the Operative Waikato District Plan, except natural hazards and climate change matters, which form part of the Stage 2 of the review.
- 1.2 Waikato District Council received a total of 989 submissions and 423 further submissions on the PDP.
- 1.3 In accordance with section 34A(1) of the Resource Management Act 1991 (RMA), the Council appointed a seven-member Hearings Panel (the Panel) to hear and make decisions on the submissions on the PDP. The following Panel members were appointed:
- Dr Phil Mitchell (Chair)
  - Mr Paul Cooney (Deputy chair)
  - Councillor Jan Sedgwick
  - Councillor Janet Gibb
  - Mr Dynes Fulton (previously an elected Councillor and Deputy Mayor)
  - Ms Linda Te Aho
  - Mr Weo Maag
- 1.4 The hearings on the PDP are currently on-going. The Decisions of the Panel encompassing consideration of submissions to both Stages 1 and 2 of the PDP collectively, is anticipated to be released as a single package in 2021. The Panel has decided to make an exception to this, by releasing the Decision on the Raglan Landward Navigation Beacon Height Restriction Plane in advance of the release of the full Decision. The Panel is sympathetic to the concerns raised by Mr Spencer Wheeler and Mrs Isabelle Wheeler in submission number 720, in relation to the emotional hardship caused by the Raglan Landward Navigation Beacon Height Restriction Plane, the purpose of which is to provide navigational safety for vessels entering Whaingaroa (Raglan Harbour) by maintaining a clear line of site from the harbour to the Landward Navigation Beacon that is situated on an elevated site on Long Street.
- 1.5 The provisions relating to the Raglan Navigation Beacon Height Restriction Plane are set out in Chapter 16 (Residential Zone) and Appendix 7 (Raglan Navigation Beacon) of the PDP. Under Rule 16.1.1, it is a Prohibited Activity for any building, structure, object or vegetation to obscure the sight line of the Raglan Navigation Beacons as set out in Appendix 7.

## 2 Hearings Arrangements

- 2.1 The Panel heard from Mr and Mrs Wheeler in both Hearing 10 (Residential) and Hearing 16 (Raglan), noting that not all Panel members sat on all the individual hearings. Hearing 10 (Residential) was held on 25 and 26 of February 2020 at the Waikato District Council Offices<sup>1</sup> at 15 Galileo Street, Ngaruawahia. Hearing 16 (Raglan) was held on 2 June 2020 via Zoom<sup>2</sup>. All of the relevant information pertaining to these hearings (i.e. section 42A reports and evidence) is contained on the Waikato District Council website.

## 3 Overview of Issues Raised in Submissions

- 3.1 The Panel heard that Mr and Mrs Wheeler have owned a property at 12 Long Street, Raglan for some 20 years. That property is located within the Raglan Navigation Beacon Height Restriction Plane. Mr and Mrs Wheeler have been wanting to build a new house on the subject site, which is a Prohibited Activity as part of the house would protrude into the Raglan Navigation Beacon Height Restriction Plane. Mr and Mrs Wheeler oppose the provisions relating to the Raglan Navigation Beacons on the basis that it unduly restricts their ability to construct a house on their property, and provided detailed information as to the steps they have taken to have the Landward Beacon raised in height, so that their proposed house would not obstruct views of it from Whaingaroa.
- 3.2 Mr and Mrs Wheeler also informed the Panel that there are existing problems relating to the visibility of the Raglan Landward Navigation Beacon in its current position. They advised that the navigation markers at Raglan have been in existence since 1910, and, because of the increased urbanisation that has occurred since that time vessel operators can be confused as the light from the Landward Beacon tends to blend in with the street and house lighting in Raglan. Mr and Mrs Wheeler consider that the retention of the existing Raglan Navigation Beacon Height Restriction Plane in the PDP will not remedy the current visibility issues associated with the Raglan Landward Navigation Beacon. Their submission included letters of support from the following parties confirming the current visibility problems associated with the Raglan Landward Navigation Beacon: Raglan Sports Fishing Club, the Raglan Volunteer Coastguard and the Raglan Harbourmaster, with all agreeing that there is a need to raise the beacon light for navigation safety purposes.
- 3.3 Mr and Mrs Wheeler's submission sought to amend Rule 16.1.1 of the PDP to change the proposed Prohibited Activity status to Non-complying Activity for any building, structure, object or vegetation to obscure the sight line of the Raglan Navigation Beacons as set out in Appendix 7.
- 3.4 In submission 697.426, the Waikato District Council sought to amend Appendix 7 (Raglan Navigation Beacon) to "*reflect the increased height of the Raglan navigation beacon, and therefore the elevated height restriction plane which will apply*". The submission includes the following explanation for the relief sought: "*The Raglan*

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<sup>1</sup> The Panel for Hearing 10 comprised: Dr Mitchell, Mr Cooney, Cr Gibb, Mr Fulton and Ms Te Aho

<sup>2</sup> The Panel for Hearing 16 comprised: Dr Mitchell, Mr Cooney, Cr Sedgwick and Ms Te Aho

*navigation beacon will be raised in height shortly which means that the height restriction plane diagram and survey data contained in Appendix 7 will no longer be correct”.*

- 3.5 The Panel was informed that there have been discussions between the Waikato District Council and the Waikato Regional Council in relation to this matter, and that both Councils have agreed in principle that that the Raglan Navigation Beacon should be raised. This position aligns with the submission from the Waikato District Council set out above.

#### **4 Panel Decision and Reasons**

- 4.1 The Panel is sympathetic to the constructive submission from Mr and Mrs Wheeler, who are long term residents of Raglan. The Panel notes that this matter has been on-going for an extended period of time, and while there has been a long-standing agreement in principle between the Waikato District Council and the Waikato Regional Council to raise the Raglan Landward Navigation Beacon, the issue is still unresolved. Given the length of time that has elapsed so far, the Panel is satisfied that the PDP should be amended to address this matter urgently for the benefit of Mr and Mrs Wheeler and to significantly improve navigational safety in and around Raglan Harbour.
- 4.2 The Panel notes that the resolution of this matter is complicated by two issues: firstly, the confirmation of who owns the Raglan Landward Navigation Beacon itself and hence has the responsibility for maintaining it; and secondly, the raising the Raglan Navigation Landward Beacon will require corresponding change to Appendix 7 of the PDP which sets out the Raglan Navigation Beacon Height Restriction Plane.
- 4.3 With respect to the first matter, it was initially explained to the Panel that the Raglan Navigation Landward Beacon was sited on Waikato District Council road reserve, and while the structure that the Beacon is attached to was owned by the Waikato District Council, the Beacon itself was owned by the Waikato Regional Council. Therefore, we understood that any decision to raise the Beacon required cooperation and agreement between both Councils. In this regard, the Panel wrote to the CEOs of both Councils urging them to raise the Raglan Landward Navigation as soon as possible, noting that both Councils had already agreed in principle to do so. The Panel understands that both CEOs instructed their respective staff to address this matter promptly. It has subsequently been brought to the Panel’s attention that the Raglan Landward Navigation Beacon is, in fact, wholly owned by the Waikato District Council, thereby simplifying the process of raising it.
- 4.4 With respect to the second matter, the Panel is satisfied that that the PDP should be amended prior to either the precise height of the extended Beacon being determined, or the Beacon being physically raised. It is the Decision of the Panel that the PDP be amended such that the “view shaft” of the Raglan Navigation Beacon Height Restriction Plane can be defined by reference to the actual elevation of the Beacon (whatever it may eventually be), rather than by reference to a specific set of fixed coordinates, as is the case currently. In this way, if the elevation of the Raglan Navigation Landward Beacon were to be raised, the associated view shaft or Height Restriction Plane would

be raised accordingly. This approach will ensure that as soon as the Raglan Navigation Landward Beacon is physically raised in elevation, the prohibition on locating buildings within the Height Restriction Plane, as it is currently defined, would also be eased.

- 4.5 The Panel considers that retaining the Prohibited Activity status for any breach of the (redefined) Raglan Navigation Beacon Height Restriction Plane is appropriate as it will ensure that the sightlines of the Beacons is retained, thereby ensuring that navigational safety is not compromised.
- 4.6 Accordingly, it is the Decision of this Panel that the PDP be amended as set out in Section 6 of this Decision. The Panel notes that the Raglan Navigation Beacon Height Restriction Plane, and the associated Prohibited Activity Rule, are referred to in other chapters of the PDP. Those provisions, including the wording of the Prohibited Activity rule are not addressed in this Decision.

## 5 Section 32AA Assessment

- 5.1 The Panel considers that the amendments to the Raglan Navigation Beacon Height Restriction Plane provisions as set out in Section 6 of this Decision, do not represent a significant policy shift to the notified PDP. These amendments are considered to be of a “refinement” nature, and do not fundamentally alter the nature or intent of the notified provisions.

## 6 Decisions Version - Amendments to the PDP

*Note: changes are shown in ~~strike through~~ and underline.*

- 6.1 Chapter 16: Residential Zone, is to be amended as follows:

### 16.3.3 Height

- (1) Rules 16.3.3.1 to 16.3.3.3~~A~~ provide permitted height for buildings, structures or vegetation.
  - (2) Rule 16.3.3.1 Height – Building general provides permitted height limits across the entire Residential Zone.
  - (3) Rule 16.3.3.2 Height -Buildings in a battlefield view shaft.
  - (4) Rule 16.3.3.3 Height - Buildings, structures and vegetation within any airport obstacle limitation surface provides height limits for specific activities within these areas.
- (4A) Rule 16.3.3.3A Height – Buildings, structures or vegetation – Raglan Navigation Beacon Height Restriction Plane, permits buildings, structures and vegetation so long as there is no penetration of the Raglan Navigation Beacon Height Restriction Plane as set out in Appendix 7 (Raglan Navigation Beacons).

- (5) Where sites are located within the Raglan Navigation Beacons height restriction plane as identified on the planning maps and Appendix 7 (Raglan Navigation Beacons), the prohibited activity Rule 16.1.1 PR1 applies.

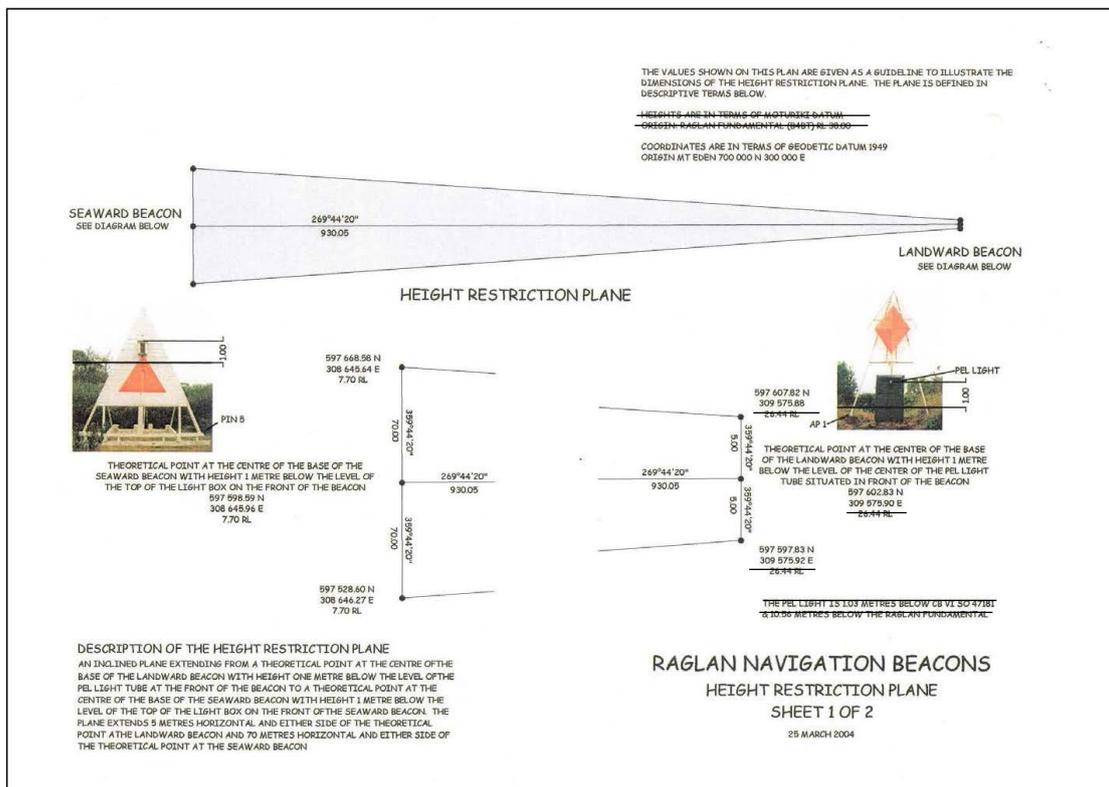
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**16.3.3.3A Height – Buildings, structures or vegetation – Raglan Navigation Beacon Height Restriction Plane**

<u>P1</u>	<p><u>A building, structure or vegetation that is located beneath, but does not intrude into, the Raglan Navigation Beacon Height Restriction Plane, as defined in Appendix 7 (Raglan Navigation Beacons), provided that:</u></p> <p>(i) <u>A Registered Surveyor has certified, in writing, that the building, structure or vegetation does not intrude into the Raglan Navigation Beacon Height Restriction Plane; and</u></p> <p>(ii) <u>This certification is provided to Council prior to the commencement of any works.</u></p>
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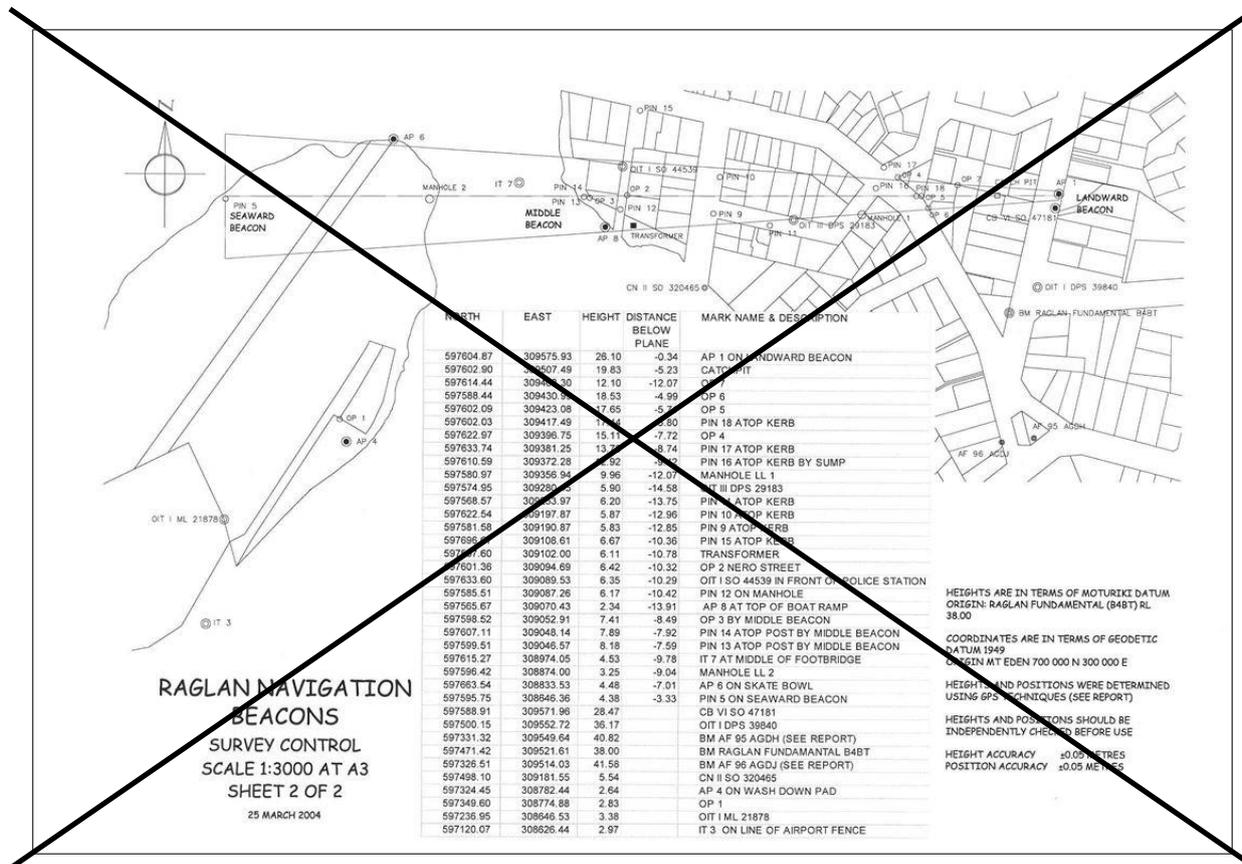
6.2 Appendix 7: Raglan Navigation Beacon is to be amended as follows:

Figure 1 Raglan Navigation Beacons – Height Restriction Plane



Note: The height of the landward beacon is not fixed in the plan and reference is made to its actual height, whatever that may be at a point in time

Figure 2 Raglan Navigation Beacons—Survey Control To be deleted



6.3 Consequential amendments

The relevant Planning Maps and the numbering of the PDP provisions are to be amended if / and to the extent necessary.

Signed by:

PH Mitchell (Chair)

For and on behalf of the Waikato District Plan Hearings Panel