

BEFORE THE WAIKATO DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the submission points made by Ara Poutama Aotearoa (the Department of Corrections) on the Designations provisions of the Proposed Waikato District Plan (Submitter No. 496 and Further Submitter No. 1210) – **Hearing 15**

STATEMENT OF EVIDENCE OF MATTHEW CRAIG ALLOTT

PLANNER

ON BEHALF OF ARA POUTAMA AOTEAROA (THE DEPARTMENT OF CORRECTIONS)

26 March 2020

1.0 QUALIFICATIONS AND EXPERTISE

- 1.1 My name is Matthew Craig Allott and I am a Principal and Planner at Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects.
- 1.2 I hold the qualifications of Bachelor of Resource and Environmental Planning (Hons) from Massey University. I am a Full Member of the New Zealand Planning Institute.
- 1.3 I have been a planner in local government or as a planning consultant based in Tauranga, Rotorua, Auckland and Queenstown, and have 20 years' experience.
- 1.4 I have been involved in a range of resource consent and policy development matters from both a regulatory and consultancy viewpoint.
- 1.5 In this matter, I was engaged by the Ara Poutama Aotearoa (the Department of Corrections ("the Department")).

2.0 CODE OF CONDUCT

- 2.1 I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes. I agree to comply with the code and am satisfied the matters I address in my evidence are within my expertise. I am not aware of any material facts that I have omitted that might alter or detract from the opinions I express in my evidence.

3.0 SCOPE OF EVIDENCE

- 3.1 The scope of my evidence relates to (a) the Notice of Requirement (NOR) made by the requiring authority (Minister of Corrections C/- The Department of Corrections) for Designation P1 to be included in the PWDP with minor modifications to the designation text; and (b) further submission points (1210.1 and 1210.2) that the

Department made in relation to the Designations section of the Proposed Waikato District Plan (“PWDP”).

- 3.2 My colleague, Sean Grace (Planner, Boffa Miskell) prepared the NOR and further submissions on behalf of the Department. Mr Grace has briefed me on both the NOR and the minor modifications sought, and the further submissions and I am familiar with the content.
- 3.3 Further submission 1210.1 by the Department opposed submission 412.1 by David Saxton. David Saxton seeks that the Department maintain all mitigation plantings associated with the Spring Hill Corrections Facility (SHCF) for as long as the prison exists. The second leg of David Saxton’s submission seeks that the PWDP apply a “significant natural area” map annotation to the native plantings at SHCF. I note that this submission point has been allocated for consideration at later Hearing 21, which will tentatively commence in August 2020¹.
- 3.4 Further submission 1210.2 by the Department supported submission 559.242 by Heritage New Zealand Lower Northern Office (HNZ). HNZ seeks amendments to condition 5.1 (Archaeological) of the existing designation for SHCF (P1) to correctly refer to the updated naming of the heritage authority, as required by the Heritage New Zealand Pouhere Taonga Act 2014; HNZ also seeks the deletion of wording within condition 5.1 (Archaeology) to ensure HNZ, rather than Waikato District Council (WDC); is responsible for the process of recording and recovering discovered archaeological features.
- 3.5 In addition to the above-mentioned; I will also discuss (a) the issue raised by the Council Officer in relation to the proposed amendment to designation condition 4.2²; and (b) the further submission made by the Department in relation to the introduction of the ‘Corrections Zone’ to replace the existing Rural Zone over the SHCF site.

¹ See Section 42A Report; H15 – Designations; Page 74, Paragraph 227

² See Section 42A Report; H15 – Designations; Page 74, Paragraphs 223 - 224

4.0 BACKGROUND

- 4.1 Designation P1 is included in the Operative Waikato District Plan – Waikato Section (“the Operative Plan”) and provides for the construction, operation, maintenance and upgrading of the SHCF. The Department is responsible for the management of the SHCF.
- 4.2 The SHCF designation was confirmed by the Environment Court in a decision made on 30 June 2004. The designation is subject to a “Description of Works” and a set of 50 conditions.
- 4.3 Following confirmation of the designation in 2004 the facility was constructed between 2005 – 2007 and officially opened on 25 September 2007.
- 4.4 SHCF is located on Hampton Downs Road and Hall Road, Te Kauwhata. The land subject to the designation is legally described as Lots 2 and 3 DPS 45006, Lot 1 DPS 10284, Lot 1 DPS 49015, Lot 1 DPS 18591, and Lot 2 DPS 91891.
- 4.5 A Notice of Requirement (NOR) has been made by the requiring authority (Minister of Corrections C/- The Department of Corrections) for Designation P1 to be included in the PWDP with minor modifications to the designation text. No change is sought to the spatial extent of the designation.

5.0 THE DEPARTMENT’S FURTHER SUBMISSION POINTS AND COUNCIL PLANNERS’ RECOMMENDATION

- 5.1 I discuss first the request by the Department to roll over their existing designation for SHCF with minor modifications to the designation text.
- 5.2 A number of the designation conditions set out requirements that solely relate to the initial construction works that were undertaken to establish the SHCF. As such, that these conditions have been satisfied and are now redundant given that the facility has been operational for a decade.

- 5.3 In summary, these conditions relate to:
- Compliance with plans
 - Formation of a community Liaison Group
 - Pre-works consultation
 - Implementation of landscaping
 - Construction traffic management
 - Earthworks management
 - Upgrading of the Te Kauwhata Wastewater Treatment Plant
 - Directional signage
- 5.4 In my view, the conditions that are proposed to be removed and/or amended have been given effect to; have been complied with; and are therefore now redundant as currently worded.
- 5.5 The retention of the redundant conditions will result in inefficiencies; in effect, each time there is a proposal at the SHCF a suite of redundant conditions will need to be reviewed to check for compliance through an Outline Plan process.
- 5.6 In my view; the proposed removal and/or amendments to redundant conditions will result in a more efficient planning framework for the SHCF.
- 5.7 Turning to the further submission 1210.1; I note that the Council Officer has recommended that the submission by David Saxton (412.1) be rejected³. The Department supports this recommendation. The requirement to maintain and protect planting is already confirmed through the designation conditions applicable to SHCF, including conditions 6.1 and 6.2. These conditions act in the same way as resource consent conditions and are therefore able to be monitored and enforced by WDC where compliance is

³ See Section 42A Report; H15 – Designations; Page 5, Paragraph 230

not achieved. In my view, any additional level of protection is unnecessary.

- 5.8 In relation to further submission 1210.2 the Department supports submission 559.242 by HNZ insofar as it relates to proposed amendments to condition 5.1 (Archaeology) of the existing designation for the SHCF. The proposed amendments (a) correctly refer to the updated naming of the heritage authority, as required by the Heritage New Zealand Pouhere Taonga Act 2014; and (b) provide clarity that HNZ, rather than Waikato District Council (WDC); is responsible for the process of recording and recovering discovered archaeological features. I note that the Council Officer has recommended that the submission by HNZ (559.242) and the further submission by the Department (1210.2) be accepted. I concur for the reasons set out above.
- 5.9 Turning to the issue raised by the Council Officer in relation to the proposed amendment to designation condition 4.2; I confirm that there has been no Section 181 NOR submitted by the Department; however, I can advise that the Department has discussed condition 4.2 with WDC monitoring staff during a SHCF compliance monitoring visit in February 2020; subsequent to this compliance monitoring visit the Department followed up with an email query to WDC monitoring staff; and in turn it seems WDC monitoring staff have discussed with the Council Officer responsible for the preparation of the Section 42A report for Hearing 15 – Designations.
- 5.10 By way of background; the Department is in the process of drawing up a Memorandum of Encumbrance (MoE) in accordance with the requirements of designation condition 4.3. For the purpose for clarity and completeness here; the Department has asked WDC for some guidance as designation condition 4.2 names three iwi parties which need to be listed within the MoE, and the Department is aware that there have been changes to the registered names of these parties.

5.11 In terms of where this has got to, the WDC iwi advisor has responded to the Department stating that the *Waikato Raupatu Lands Trust* is now *Waikato Tainui Inc.*; however, with regard to the queries on Horahora Marae Trust and Ngati Naho Co-operative Society, WDC has provided iwi contact details.

5.12 Given the legal / registered names of the iwi parties listed within Designation P1 have and may continue to change over time, the Department would like to amend condition 4.2 to accommodate any changes as follows:

“The puna (springs) shown on Figure 4 dated December 2003 shall be fenced off and protected from construction works, including earthworks. There shall be no future building development or earthworks within 5m of any puna unless agreed between the Minister and the Waikato Raupatu Lands Trust, Ngati Naho Co-operative Society and Horahora Marae Trust or successors”.

5.13 Turning to the further submission made by the Department in relation to the introduction of the ‘Corrections Zone’ to replace the existing Rural Zone over the SHCF site; I note that the Department has corresponded with WDC as to where this issue ‘sits’ in terms of the PWDP hearings schedule and a verbal indication has been given that this matter will be dealt with through the “Zone Extents” or “Other Matters” hearings. Notwithstanding, and for the avoidance of doubt given the importance of the issue to the Department; I discuss it here in brief.

5.14 The Department’s submission (496.10) seeks the retention of the provisions in the PWDP as notified, other than the provisions addressed in the Department’s submission. The Department’s submission was made in October 2018 prior to the release of the National Planning Standards, which were published in April 2019 and subsequently gazetted. The National Planning Standards have introduced a standardised set of ‘special purpose zones’, one of which includes the ‘Corrections Zone’. The National Planning Standards provide the following description for the Corrections Zone:

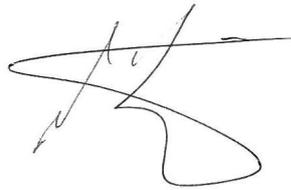
“Areas used predominantly for the efficient operation and development of prisons and associated facilities and activities and the security requirements of prisons. The zone may also be used for new and changing approaches to prisoner reintegration and rehabilitation”.

- 5.15 In accordance with the National Planning Standards directive; the Department seeks the imposition of the Corrections Zone to the SHCF site.
- 5.16 The imposition of the Corrections Zone will address difficulties the Department has experienced with its custodial corrections sites nationally, particularly in seeking to introduce new forms of prisoner rehabilitation and integration within the constraining scope of the existing designation and underlying zone objectives and policies.
- 5.17 The Department’s operations are highly specific and, by their nature, sit outside the framework of the underlying Rural Zone.
- 5.18 The Corrections Zone will principally provide a policy base for the activities, which occur under the prison designation. The Corrections Zone will provide a basis for assessing the appropriateness of alterations to designations and for activities not provided for by the designation.
- 5.19 The Corrections Zone will need to comprise objectives, policies and rules, which will enable existing and future corrections activities on the SHCF site; while also allowing WDC to manage effects associated with such activities. These objectives, policies and rules will need to be cognisant of outcomes the District Plan is seeking to achieve in the wider / surrounding rural area; and furthermore, tailored to make specific provision for prison facilities and associated rehabilitation and reintegration facilities.

6.0 CONCLUSION

- 6.1 The relief sought by the Department will result in an efficient and effective planning framework for the SHCF.

- 6.2 The proposed removal and/or amendments to redundant designation conditions will result in a more efficient planning framework; the proposed amendments to designation condition 5.1 (Archaeology) are appropriate; and insofar as designation condition 4.2 is concerned, the Department would like the condition to be amended to accommodate changes to legal / registered names iwi parties over time and avoid changes to related documentation such as the MoE required by condition 4.3.
- 6.3 In relation to the imposition of the 'Corrections Zone' to replace the Rural Zone over the SHCF site; this aligns with the National Planning Standards directive; and needs to be addressed as part of future PWDP hearings processes accordingly.



Matthew Craig Allott

Principal / Planner

Boffa Miskell Limited

26 March 2020