

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

**AND**

**IN THE MATTER** of a submission by **AMBURY PROPERTIES LIMITED** in respect of the **PROPOSED WAIKATO DISTRICT PLAN** pursuant to Clause 6 of Schedule 1 of the Act seeking the rezoning of land at Ohinewai

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**STATEMENT OF EVIDENCE OF ANGUS BRUCE MCKENZIE  
FOR MERCURY NZ LIMITED (PLANNING)**

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1. **INTRODUCTION**

1.1 My name is Angus McKenzie. I am a Director and Principal Planner at Place Environmental Planning Group Limited (Place Group). I hold a Bachelor of Resource and Environmental Planning degree, which I obtained in 2000. I have over 19 years of experience as a planner in New Zealand and overseas in the United Kingdom. Specifically, I have experience in natural resource management, and natural hazards planning. I am a Full Member of the New Zealand Planning Institute.

1.2 I have been advising Mercury NZ Limited (Mercury) in relation to strategic and statutory planning, as it relates to Mercury's role as the owner and operator of the Waikato Hydro System (WHS), and Mercury's interest in wider floodplain management issues in the Lower Waikato River including the proposed Ambury Properties Limited (APL) development and the rezoning of land for it at Ohinewai.

1.3 As is the case with Mr Webby, it is my understanding that in addition to the APL proposal at Ohinewai, submissions by Ohinewai Lands Limited (submitter 383) and Shand Properties Limited (submitter 738) also sought to enable development in this area. Mercury lodged further submissions on these submissions also, as the PWDP provisions related to flood risk management on the sites were unknown at that time, and noting the need for an appropriate and adequate flood risk management framework within the PWDP. The APL proposal is however the only submission on which there has been proper information supplied for RMA assessment, and it is therefore the one which has been focussed on. It is not possible for me to comment on the merits or otherwise of the other proposals, at least at this time.

1.4 **Expert Witness Code of Conduct**

1.5 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2014) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my statement I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.6 **Scope of statement**

1.7 Mercury lodged a further submission on the proposal by APL to the rezoning of land at Ohinewai (the proposal) on 7 November 2019. Mercury opposed the proposal on the basis that Stage 2 of the Proposed Waikato District Plan (PWDP) was yet to be notified, and as such the PWDP provisions related to flood risk management on the site were unknown. Mercury is seeking the inclusion of an appropriate and adequate flood risk management framework within the PWDP.

1.8 I was engaged by Mercury in December 2019 to provide planning advice on the PWDP process and the APL proposal. On 5 June 2020, I was an observer at conferencing on the proposal involving experts in flooding. I also prepared a 'will say' statement and participated in expert planning conferencing on the proposal at the end of June 2020. I am a signatory to the summary statement resulting from the planning conference. This statement notes that there was no agreement between the experts in relation to the flood risk issues discussed (refer planning summary statement paragraphs 2.0 to 4.2).

1.9 Stage 2 of the PWDP was notified on 27 July 2020 and includes the Waikato District Council's (WDC) provisions for managing natural hazards and climate change. PWDP Map 14 includes the APL site, but does not contain any spatial layer that indicates the site is within the flood plain. Map 14 does not include any spatial representation signalling that Lake Waikare is a key component of the overall flood management scheme for the Waikato Hydro Scheme (WHS).

1.10 Given the above, this statement of evidence addresses the following:

- (a) The key interests of Mercury in relation to the APL proposal and PWDP. (Section 2).
- (b) The key requirements under the Resource Management Act (RMA) to address flood risk management within a District Plan framework. (Section 3).
- (c) The key resource management planning issues concerning Mercury in relation to the APL proposal as these relate to the overall PWDP framework for flood risk management. (Section 4).
- (d) My conclusions on the above (Section 5).

## 2. **MERCURY SUBMISSION**

- 2.1 Mercury owns and operates the WHS which consists of the Taupo Gates, eight dams and nine power stations on the Waikato River. Karapiro dam is located South of Cambridge and is the first dam upstream of the Waikato District. Mercury's role includes managing flow (both high and low flows, to the extent possible and authorised) on the main stem of the Waikato River via the WHS and the various consents relevant to its operation. Variable flows may potentially have consequences for downstream land users as a result of water flowing through the main stem of the Waikato River within the Waikato District area.
- 2.2 As set out in Mercury's submission to the PWDP Stage 1, Mercury's primary interest is how significant flood hazards are modelled and correspondingly managed through the PWDP. Specifically, Mercury is concerned that;
- (a) The staging of the PWDP will adversely impact on the ability to achieve sustainable management of flood hazard matters, and
  - (b) Adequate flood hazard mapping has not been undertaken for the District Plan, which hinders a risk-based approach to land use management.
- 2.3 On initial review of the recently notified Stage 2, Mercury remains of the view that the flood hazard mapping and the related planning framework within the PWDP is inadequate to develop an adequate risk based approach to land use management within the Waikato District. This is represented in part by the omission of Lake Waikare and surrounding catchment from the flood plain. I concur with this view.

## 3. **FLOOD HAZARD AND RISK MANAGEMENT REQUIREMENTS**

- 3.1 The requirement to undertake flood hazard identification and management of risk stems from the RMA and the Waikato Regional Policy Statement (RPS). Section 6 of the RMA identifies "*the management of significant risks from natural hazards*" as a matter of national importance which needs to be recognised and provided by all persons exercising functions and powers under the Act. Section 31 of the RMA sets out functions of territorial authorities. Every territorial authority shall have the following functions for the purpose of giving effect to the RMA:
- (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the*

*effects of the use, development, or protection of land and associated natural and physical resources of the district:*

(b) *the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:*

(c) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*

(i) *the avoidance or mitigation of natural hazards; and...*

3.2 Of relevance to APL's proposal, is the requirement for Council to control actual or potential effects of the use, development and protection of land for the purpose of "**avoidance or mitigation of natural hazards**".

3.3 The RMA definition of an effect includes;

*(a) any positive or adverse effect; and*

*(b) any temporary or permanent effect; and*

*(c) any past, present, or future effect; and*

*(d) any cumulative effect which arises over time or in combination with other effects — regardless of the scale, intensity, duration, or frequency of the effect, and also includes—*

*(e) any potential effect of high probability; and*

*(f) any potential effect of low probability which has a high potential impact.*

3.4 Section 13 of the RPS sets out the natural hazard risk management approach for the region, which includes the requirement to identify primary hazard zones that shall be recognised and provided for in regional and district plans. Policy 13.2 of the RPS also requires subdivision, use and development to be managed to reduce the risks from natural hazards to an acceptable or tolerable level.

#### 4. **APL PROPOSAL – EFFECTS, ASSESSMENT OF RISK AND MITIGATIONS**

4.1 The evidence of Mr Webby addresses relevant hydrology matters and potential flooding effects as a result of the APL's proposal. The evidence confirms that;

- (a) Lake Waikare and the surrounding catchment below 8m is an integral component of the Lower Waikato-Waipā Flood Control Scheme and provides off-channel flood storage capacity for significant floods in the Lower Waikato River. RL 8.0 m is the crest level of the northern foreshore stopbank. Attachment 2 to Mr Webby's evidence shows the design flood level of 7.37m for Lake Waikare.
- (b) the key effect that has been identified is the loss of flood storage capacity within the storage zone of Lake Waikare, which would result in a minor increase to flood levels and a reduced capacity to absorb flood water diverted from the Waikato River in a significant flood event.

Mercury acknowledges therefore that the displacement effect from infill earthworks on the flood plain as part of the APL proposal is likely to be insignificant.

- 4.2 In my opinion there remains, however, an overall need within the Waikato District to assess any development within the floodplain that involves volume infill, including APL's proposal, to determine cumulative effects of land use change on the flood storage capacity overall. Mercury will be making further representations on this matter in relation to Stage 2 of the PWDP.
- 4.3 The WDC's proposed PWDP Map 14 Lake Waikare excludes the area that has been confirmed as flood plain. This is despite the 1% AEP design flood level of RL 7.37m floodplain layer being discussed extensively during expert conferencing. APL has acknowledged and responded to this by mapping the 7.37m floodplain layer in their evidence. The APL development provides an adequate freeboard level of 8m, which mitigates the 1% AEP flood risk in this location.
- 4.4 The absence of any acknowledgement of the floodplain surrounding Lake Waikare in Stage 2 of the PWDP leads me to question how infill development within the flood plain is to be managed under the District Plan framework moving forward. This omission of a central part of the floodplain raises matters more generally about flood model coverage and how flood risk is managed for anticipated development activities throughout the district. In my opinion, from a first principles approach, WDC should seek to resolve its District Plan policy position on this matter prior to any decisions on land use within the flood plain (represented or not).
- 4.5 Mercury will speak to the above policy settings within PWDP Stage 2 Natural Hazard and Climate Change submissions. Mercury will also seek to utilise

information submitted by APL within Stage 2 to ensure significant risk from natural hazards are being managed, including cumulative effects of infill development.

## 5. **CONCLUSION**

- 5.1 On basis of the expert opinion of Mr Webby, I consider that APL has adequately assessed and mitigated flood risk on its Ohinewai site, but that this has been proposed in the absence of a confirmed District wide flood risk management framework.
- 5.2 I consider that the PWDP should use the best information available to ensure significant flood risk is spatially represented within that Plan. This should include recognition of Lake Waikare and its surrounding catchment below RL 7.37m, which forms an integral part of the flood plain and the WHS.
- 5.3 The PWDP Stage 2 provisions should take account of APL's proposal and supporting evidence to ensure that flood risk is managed and cumulative infill effects on flood plain storage are managed long term, in accordance with statutory obligations.
- 5.4 In my opinion, of critical importance to this framework is the need for the 1% AEP design flood level of RL 7.37m to be spatially represented in the PWDP to ensure that the flood plain and associated risks are clear in relation to any land use change/development proposal. This will allow for appropriate land use/planning decisions to be made that consider and address cumulative infill effects and the loss of storage within the floodplain.

**Angus McKenzie**

**6 August 2020**