

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan

Stage 2 – Natural Hazards and Climate Change: Background and Process Hearing 27A

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1. Introduction

1.1 Qualifications and experience

1. My name is Neil Christopher Taylor. I am employed by Waikato District Council as a Team Leader (Resource Management Policy - Community Growth.) I hold the qualifications of Bachelor of Laws and a Post Graduate Diploma in Natural Resources. I was a full member of the New Zealand Planning Institute from 2010 to 2018, and since 2018 have been an associate member after retiring from full-time employment.
2. I have been employed in local government planning roles for over 20 years, and was mostly engaged in the development of new district and regional plans for the Tasman, Nelson, Whangarei, North Sydney, Waikato district, Hamilton, and Waikato regional councils. I was team leader for the Waikato District Plan review in 2002-2008, and became Environmental Policy Manager in 2005. My experience includes the development of a wide range of district plan provisions and managing these through the Resource Management Act plan-making processes.

1.2 Code of Conduct

3. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this 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 that I express.
4. I am authorised to give this evidence on the Council's behalf to the Hearings Panel.

1.3 Conflict of Interest

5. I confirm that I have no real or perceived conflict of interest.

2. Scope of report

6. This report records the process followed by Waikato District Council to develop Stage 2 of the Proposed Waikato District Plan – Natural Hazards and Climate Change, up to the commencement of hearings. This report does not discuss individual submissions and makes no recommendations.
7. The purpose of this report is to place on a record a ready reference for participants in submissions hearings. The report avoids the need for individual hearings reports and evidence to repeat this history.
8. A similar Background and Process report was prepared for Stage 1 in September 2019¹. That report details the history of the district plan review from 2014 and those details are not repeated here. Waikato District Council resolved on 12 March 2018 to divide the district plan review into Stage 1 and Stage 2. The processes for Stages 1 and 2 diverged after March 2018 and this report focusses on the progress of Stage 2 after that date.

3. Development of Stage 2

3.1 The need for natural hazards and climate change provisions

9. The district plan is the primary document that manages land use and development within the district. It is required by the Resource Management Act 1991 (RMA) to sustainably manage the natural and physical resources of the district.
10. The significant risks from natural hazards and the effects of climate change are important considerations in sustainable management (RMA sections 6(h) and 7 (i)).
11. The RMA gives regional and district councils functions in relation to natural hazards (ss30 and 31). Specific roles of each council are allocated by regional policy statements.
12. Waikato Regional Policy Statement (WRPS) allocates natural hazards functions as follows:

“4.2.10 For the purposes of avoiding or mitigating natural hazards, territorial authorities shall be responsible for the control of the use of land except for the following, which shall be the responsibility of the Waikato Regional Council: a) the control of the use of land in the coastal marine area and the beds of lakes and rivers; and b) the control of structures in primary hazard zones.”
13. In relation to climate change, WRPS 4.1.13 requires district plans to recognise and provide for the projected effects of climate change, having particular regard to climate data and projected increases in rainfall and sea levels.
14. District councils and district plans cannot address climate change in a broad sense. Central Government has largely retained that role to itself. Stage 2 is focussed on the issues within district council functions under the RMA, being the effects of projected increases in rainfall and sea levels in relation to natural hazards.

3.2 Early development of the natural hazards and climate change provisions

15. In April 2014, the Council initiated a full review of the Operative Waikato District Plan including Waikato and Franklin sections (Resolution No. WDC1404/08/1/7).
16. In 2017 it became clear that the natural hazard and climate change topics would not be completed in time for notification with the rest of the PWDP. This was due to delays in receiving flood mapping data and other technical information associated with natural hazards. In March 2018, the Council resolved that the climate change and natural hazards topics be reviewed and notified separately from the rest of the district plan topics.
17. In June 2018, the Council adopted Stage 1 of the PWDP for notification (WDC1806/07). This covered all district plan topics except natural hazards and climate change. Stage 1 was notified on 18 July 2018.

3.3 Ongoing Development of Stage 2

18. Extensive engagement was undertaken on the draft hazards and climate change text and maps between 2017 and 2020.
19. Public engagement on Stage 2 started when the draft objectives and policies and flood modelling for the Waikato and Waipa Rivers were made available for public feedback, along with the Stage 1 Draft Proposed District Plan in November 2017. Nine community drop-in

sessions were held throughout the district for the community to engage with staff and Councillors about any topic in the draft district plan that was important to them. No specific feedback was received on the objectives, policies or flood maps at that time.

20. A series of community workshops / drop-in sessions were held in Raglan and in Port Waikato in December 2017 and November 2018. The initial sessions were to gather information about coastal hazards from the local communities, and subsequent sessions were to share the findings of the coastal hazard assessment and to give the community an opportunity to provide feedback.
21. A collaborative partnership with Waikato Regional Council staff was established for the development of Stage 2, with both councils contributing to the development of the 1% Annual Exceedance Probability 2D flood modelling for the Waikato and Waipa Rivers. Waikato Regional Council staff also contributed technical information and support to Waikato District Council staff throughout the development of the draft provisions and hazard maps.
22. Draft plan provisions were released in September 2019 for four weeks. Details of the consultation process are recorded in the section 32 report² (Appendix 6). Feedback from key stakeholders, iwi, coastal communities at Raglan and Port Waikato and the wider district was received and considered and, where appropriate, incorporated into revised draft provisions and maps.
23. Further public engagement took place at open days in various locations around the district, following the release of the draft of Stage 2 in September and October 2019. The feedback received, and suggestions as to how it could be incorporated into the plan, were presented to Councillors at two workshops in March 2020.
24. As required by the RMA, the following parties were consulted:
 - the Minister for the Environment
 - other Ministers of the Crown affected by the plan
 - local authorities affected
 - the tangata whenua affected, through iwi authorities.
25. Consultation with iwi has occurred throughout the review of Stage 2. Five iwi authorities were approached: Waikato-Tainui, Ngati Tamaoho, Ngati Maniapoto, Tainui Awhiro and Hauraki Collective. Raglan and Port Waikato iwi or hapuu were also engaged during the development of the coastal hazards assessment and the subsequent development of draft provisions and hazard maps.
26. The draft Stage 2 provisions, the hazard maps and Variation 2 were sent to iwi authorities and other hapuu on 14 April 2020, and their advice was requested, as required by RMA Schedule 1 clause 4A. In light of the Covid-19 disruptions, staff delayed bringing this report to the Council while dialogue continued with iwi authorities and hapuu and their feedback was received. All feedback received from these entities was considered and responded to. Iwi advice and feedback received are detailed in the s32 report.
27. Feedback received from consultation with the Government ministers and departments, councils, community, stakeholders, iwi and elected members, as well as the background research and reports were used as a basis for the drafting of the proposed district plan.

1. Section 32 report “Natural Hazards and Climate Change” published with Stage 2 notification in July 2020, and available on the Waikato District Council website.

28. Details of relevant council meetings and workshops are recorded in the section 32 report.

3.4 Matters required to be considered

29. RMA section 74 sets out the matters that must be considered in preparing or changing a district plan. Among other things, section 74 requires a local authority to comply with its functions under sections 31, 32, 75(2) and Part 2 of the Act in preparing a change to a district plan. Section 74 requires the following matters to be given regard to:

- proposed regional policy statement, or
- proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4
- management plans and strategies prepared under other Acts
- any relevant entry in the Historic Places Register
- any regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiāpure, mahinga mātaītai, or other non-commercial Māori customary fishing),
- the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

30. In addition, a territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district (RMA section 74(2A).)

31. RMA section 75(3) requires district plans to give effect to:

- (a) any national policy statement; and
- (b) any New Zealand coastal policy statement; and
- (c) any regional policy statement.

3.5 National Policy Statements

32. Section 75(3) RMA requires that the district plan gives effect to any National Policy Statement (NPS) and any New Zealand coastal policy statement. Four NPS are currently in place:

- NPS on Electricity Transmission (2008)
- NPS for Renewable Electricity Generation (2011)
- NPS for Freshwater Management (2014)
- NPS on Urban Development (2020).

33. Stage 2 gives effect to relevant provisions of these NPSs. Several other draft NPS have been considered or proposed by the Government but are not yet operative, and therefore have not been taken into account in the district plan review.

34. The New Zealand Coastal Policy Statement (NZCPS) includes policies to achieve the purpose of the Act in relation to the coastal environment of New Zealand. NZCPS contains policies relevant to coastal natural hazards, and Stage 2 gives effect to these.

35. The Hauraki Gulf Marine Park Act 2000 (section 9) requires territorial authorities to ensure that any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8. These sections, dealing with the national significance and management of the Hauraki Gulf, are given the status of national policy statements.

36. Waikato District includes land within the Hauraki Gulf catchment, as well as a short coastline at Miranda. Natural hazards and climate change issues on this coast are not addressed in Stage

2. The Miranda coast is being reviewed under a project lead by the Hauraki District Council. The need for a future plan change, or variation to address any natural hazards identified by this study will be considered when the results are known.

3.6 National Environmental Standards

37. Every local authority and consent authority must observe national environmental standards (NES) and must enforce them to the extent that their powers enable them to. Section 44A of the RMA requires district plans to not duplicate a national environmental standard or conflict with it. The following standards are in force as regulations:
- National Environmental Standards for Air Quality
 - National Environmental Standard for Sources of Drinking Water
 - National Environmental Standards for Telecommunication Facilities
 - National Environmental Standards for Electricity Transmission Activities
 - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
 - National Environmental Standards for Plantation Forestry
 - National Environmental Standards for Freshwater (effective 3 September 2020)
 - National Environmental Standards for Marine Aquaculture (effective 1 December 2020.)
38. Stage 2 is consistent with the NES in force on 27 July 2020, neither duplicating nor conflicting with any of the NES provisions. The relevance of the two more recent NES will be considered in hearings reports where relevant.

3.7 National Planning Standards

39. National Planning Standards were approved by the Minister for the Environment and published in April 2019, after the PWDP was notified. The National Planning Standards seek to provide a standard format for district plans across New Zealand.
40. The Hearings Panel has indicated that it wishes to adopt National Planning Standards approaches where possible. Proposed Chapter 15 goes some way to fit the National Planning Standards model, in that it includes objectives, policies and rules on natural hazards and climate change in one chapter and uses definitions from the National Planning Standards where possible. Further opportunities to align with the National Planning Standards can be identified in hearings reports.

3.8 Waikato Regional Policy Statement

41. Stage 2 gives effect to the Waikato Regional Policy Statement (2016) in respect to hazards and climate change issues.
42. The Waikato Regional Policy Statement, in turn, gives effect to the vision and strategy (Te Ture Whaimana o Te Awa o Waikato) contained in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The proposed district plan acknowledges the vision and strategy (para 1.7) and complies with the requirements of the regional policy statement and obligations imposed directly under this and other Treaty settlement legislation.

3.9 Regional Plans

43. Section 75(4) RMA requires district plans to not be inconsistent with a regional plan for matters specified in section 30(1). Waikato Regional Council is currently conducting a regional plan review. Two regional plans are currently operative:
- Waikato Regional Plan
 - Waikato Regional Coastal Plan.
44. Stage 2 is not inconsistent with these operative regional plans. The district plan review had regard to the provisions of Proposed Regional Plan Change 1: Healthy Rivers Wai Ora (notified October 2016), which addresses water issues, including water quality and the vision and strategy for the Waikato River. The proposed district plan indirectly affects water issues with its development controls. Appeals on Proposed Regional Plan Change 1 are currently being heard. When its final form is known there will be a need to review whether there is any inconsistency in the district plan.

3.10 Neighbouring Territorial Authorities

45. A district council is required by the RMA section 75(2)(c) to have regard to the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities. Waikato District adjoins Auckland, Hauraki District, Matamata-Piako District, Waipa District, Otorohanga District and Hamilton City.
46. Stage 2 is considered sufficiently consistent with the operative or proposed district plans of neighbouring territorial authorities. Differences in approach or content do not reflect a conflict with neighbouring authorities, but provide a locally-informed, context-sensitive, Waikato-based planning framework.

3.11 Iwi Management Plans

47. Section 74(2A) RMA states that the territorial authority must “take into account” any planning document recognised by an iwi authority and lodged with the territorial authority to the extent that its content has a bearing on the resource management issues of the district.
48. To date there are two iwi planning documents that have been prepared and lodged with the Council. These documents have been considered in the preparation of the proposed district plan.
49. Waikato-Tainui Environmental Plan 2013 (Tai Tumu Tai Pari Tai Ao) is designed to enhance Waikato-Tainui participation in resource and environmental management. The plan seeks to achieve a consistent approach to environmental management across the Waikato-Tainui rohe, providing clear high-level guidance to external agencies regarding Waikato-Tainui values, principles, knowledge and perspectives on, relationship with, and objectives for natural resources and the environment.
50. The Joint Management Agreement (JMA) Waikato District Council has with Waikato-Tainui via Waikato Raupatu River Trust provides for an enduring relationship between the two parties. The Council must take into account the relevant components of the Waikato-Tainui Environmental Plan. As it relates to the Waikato River, the Council must respect the independence of the parties and their individual mandates, roles and responsibilities in relation to the Waikato River.

51. The Maniapoto Environmental Management Plan 2016 (Ko Ta Maniapoto Mahere Taiao) is a direction-setting document and describes issues, objectives, policies and actions to protect, restore and enhance the relationship of Maniapoto with the environment, including economic, social, cultural and spiritual relationships.
52. Stage 2 has taken into account these iwi planning documents.

3.12 Other Plans and Strategies

53. The RMA also requires a Council preparing a district plan to have regard to any management plans and strategies prepared under other Acts (section 74(2)(b)(i).) The proposed district plan takes into account several Council strategies prepared under the Local Government Act:
- Waikato District Development Strategy (“Waikato 2070”)
 - Reserves Management Plans
 - Catchment Management Plans
 - Community Plans
 - Economic Development Strategy
 - Biodiversity Strategy
 - Natural Hazard Risk Management.
54. While consultation on these documents did not explicitly link them to the district plan, the Council has considered the community input that shaped them. During the review process, collaboration within the Council has ensured that appropriate methods are included for rules or alternative methods to implement the strategies. Care has been taken to ensure that the proposed district plan does not duplicate requirements of a bylaw.
55. The Future Proof Strategy, Planning for Growth, November 2017 is a 30-year growth management and implementation plan specific to the Hamilton, Waipa and Waikato sub-regions. Future Proof establishes a settlement pattern to provide for growth and development, and aims to achieve a more compact and concentrated urban form over time. Elements of an earlier version of Future Proof have been incorporated into the Waikato Regional Policy Statement, and these are given effect to by the proposed district plan.
56. The Hauraki Gulf Marine Spatial Plan (Sea Change – Tai Timu Tai Pari) aims to secure a healthy, productive and sustainable future for the Hauraki Gulf. It was considered to have little relevance to Stage 2, given that this spatial plan mainly addresses issues within the functions of regional councils, and as noted above, natural hazards on the Miranda Coast have not yet been assessed. Implementation of the spatial plan in those parts of the district within the Hauraki Gulf catchment was addressed in Stage 1.

4. Council adoption of Stage 2

57. On 20 July 2020, the Council approved Stage 2 of the proposed district plan for notification (resolution WDC2007/06.)³
58. Stage contains planning provisions for natural hazards including river flooding, flood ponding, coastal inundation and erosion, Huntly mine subsidence, slope instability, wildfire and liquefaction, as well as climate change.
59. Objectives, policies and rules on these topics are contained in a new chapter proposed to be added to the PWDP, Chapter 15 Natural Hazards and Climate Change. Maps of natural hazard areas are proposed to be added as overlays on the Planning Maps. Chapter 15 and the maps are accompanied by another document, Variation 2, which amends Stage 1 text to make it consistent with the approach to natural hazards and climate change proposed in Stage 2.
60. No plan provisions have been withdrawn by the Council after the date of notification.

5. When rules take legal effect

61. The RMA gives Council options to determine the timing when rules take legal effect. The Council adopted the default position, which is that the rules in Stage 2 and Variation 2 will not have immediate legal effect when notified. The rules will only take legal effect after submissions have been heard and decisions are released.
62. The Council considered that the release of decisions is the appropriate time for the proposed rules to take legal effect. Stage 2 and Variation 2 are intended to build community resilience to natural hazards over a long time frame, so the time taken for submissions and hearings will make little difference. The Council expected that the new rules and mapped hazard areas would benefit from fine tuning through the submissions and hearings process.

6. Section 32 Evaluation

63. Section 32 (as applicable to the proposed district plan process) requires the Council to carry out an evaluation at the following stages:
 - (a) before a proposed plan is publicly notified, and
 - (b) before making a decision on provisions and matters raised in submissions for the proposed plan under clause 10 of Schedule 1 to the RMA.
64. A section 32 report, Natural Hazards and Climate Change, accompanied the council consideration and resolution. The section 32 report was notified with Stage 2 and is available on the Council website.

³ Earlier council considerations and discussions are detailed in the s32 report.

7. Technical reports

65. Many technical reports were commissioned to inform the development of Stage 2 prior to notification. These were focused on topics where Council staff required additional data or technical expertise to understand particular resource management issues and to analyse potential district plan options. These reports are cited in the s32 report and some are appended to that report. The reports include:
- a) Lower Waikato 2D Modelling – Huntly, Ohinewai and Horotiu Model Build: DHI, 2020. DHI Project No. 44801126.
 - b) Lower Waikato River Model Review: Tonkin + Taylor Ltd, 2020. T+T Job No. 1005528.
 - c) Report on hazards following mine closure, Huntly East: IRBA Geological Engineering Consultants, October 2018. IRBA Project No. 1003.
 - d) Peer Review of Ian R Brown Associates report titled Report on Hazards following mine closure, Huntly East, October 2018, IRBA Project 1003: TerraFirma Mining Ltd, January 2019. TerraFirma Project No. TFM0096.
 - e) Risk Assessment for Urban Areas above the Mine – Huntly East Mine Closure Assessment: RDCL, October 2019. RDCL Report No. R-19357-01.
 - f) Waikato District Hazard Assessment: Focus Resource Management Group, 2020. Focus Report No. 20/130.
 - g) Waikato District Hazard Assessment: Focus Resource Management Group, 2020. Addendum to Report No 20/130.
 - h) Waikato District Hazard Assessment: Focus Resource Management Group, 2020. Response to Peer Review by Tonkin + Taylor Ltd, 2019.
 - i) Tonkin + Taylor Ltd, 2019: Review of Waikato District Coastal Hazard Assessment. Prepared for Waikato District Council, December 2019. T+T Job No. 1012915.
 - j) Waikato District Plan Review - Natural Hazards and Climate Change Economic Assessment: M.E Consulting June 2020. M.E reference WKTO 006.20 DPR - Hazard.

8. Public Notification and submissions

8.1 Notification

66. Stage 2 of the proposed district plan was notified on 27 July 2020, with submissions open for 40 days.
67. A letter to each landowner in the district was sent out as part of the public notification. Owners of land within a mapped hazard overlay were specifically notified of the proposed overlay. Property-scale maps were included with letters. At the same time, public notices and specific notification of Government, iwi and other parties proceeded in accordance with the RMA. This was accompanied by a council media release and other communications.
68. Submissions closed on 23 September 2020. Submissions were received from 189 individuals and organisations, making 953 original submission points. The names of the submitters are listed on the Council website, under the summary of submissions. Each hearing report will include a full list of submitters and submission summaries relevant to the report topic.
69. The Council lodged its own submission. This included a submission point calling for correction of mapping of the hazard overlay along the Waipa River. In late November 2020, landowners affected by these map corrections were written to again, advising them of the proposed corrections and advising them of the opportunity to make further submissions in support or

opposition to the council submission. The letters again included individual property-scale maps.

70. The Council publicly notified a summary of decisions requested, in accordance with RMA Schedule 1, on 30 November 2020. Further submissions were invited, closing on 14 December 2020.
71. Further submissions were received from 34 individuals and organisations, making 746 further submission points. The names of the further submitters are available on the Council website. Hearings reports will cover the further submissions relevant to the primary submissions under each topic.
72. The summary of decisions requested, as well as full copies of all submissions and further submissions, are available on the Council website.

8.2 Trade competition issues

73. Schedule 1 of the RMA states that anyone may make a submission. However, if the person could gain an advantage in trade competition through the submission, the person's right to make a submission is limited by clause 6(4).
74. The Council included this item in the submission form:
 "I could / could not gain an advantage in trade competition through this submission."
75. No submitters indicated they could gain an advantage in trade competition.
76. Trade competition issues around submissions might emerge from evidence in the hearings, even though trade competition issues were not indicated when the submissions were lodged. The Hearings Commissioners may call for such other evidence or evaluation of these as the case requires.

8.3 Withdrawn submissions

77. Two submissions have been withdrawn to date. These and any later withdrawals will be reported as necessary in relevant hearings reports.

8.4 Late submissions and further submissions

78. The following submissions or further submissions were received late:

No.	Name	Closing date	Date received
2166	Fraser & Rachel, Jacqueline, & Terence McNutt, Keelan-Peebles, & Peebles	23/09/2020	23/09/2020
2187	Mark Mathers		23/10/2020
2188	David Whyte		23/10/2020
2189	David Whyte		23/10/2020
2165	Jade McCormack		24/09/2020
2154	Joytishna Arti Devi		25/09/2020
2162	Glenn & Marion Hunter		28/09/2020
2164	Amanda & Max Ravlich		28/09/2020
2167	Judi Gallagher		30/09/2020
2184	Charles Verstappen		8/10/2020
FS 3002	Chris Horne	14/12/2020	14/12/2020
FS 3028	Stuart Penfold		15/12/2020

79. These late submissions and further submissions were accepted by the Hearings Commissioners on 15 March 2021.

8.5 Pre-hearing conference

80. No pre-hearing conferences had been held as at the date of this report.

9. Hearing Commissioners

81. In September and December 2018, the Council appointed the hearing commissioners to hear submissions on both Stages 1 and 2. This was done in September and December 2018 (WDC1809/14; WDC 1812/08), and April 2019 (WDC1904/07 and 1904/08.)

82. The Hearing Commissioners have been delegated all powers, duties and functions under the Resource Management Act 1991 to consider, hear and decide on submissions on the Proposed Waikato District Plan Stage 1 and 2.

83. The Hearing Commissioners have issued minutes and directions relevant to Stage 1 and 2 hearings, available on the Waikato District Council website. Especially relevant to Stage 2 are:

- Register of Commissioner Interests, relationships with submitter parties and actions proposed in respect of these

- Additions to the Register of Commissioner Interests
- Directions on preparations for, and conduct of, the hearings
- Provision for hearings to be held remotely by Zoom, in response to the pandemic.

10. Hearings and decision process

84. Submissions are scheduled to be heard by the Hearing Commissioners in May 2021. It is expected that submissions will be heard in groups of topics on different days.
85. Following the hearings, the commissioners will adjourn to deliberate on the decisions they consider appropriate in terms of RMA requirements and their mandate.
86. The decisions will be released in writing following the conclusion of all hearings and deliberations. This is not expected before late 2021. Decisions will be sent to submitters. A 'decisions version' of the PWDP will be released at the same time, including any changes made.
87. Submitters are entitled to appeal to the Environment Court if they are not satisfied with the decision. All appeals must be lodged within the time period specified in Clause 14 of Schedule I of the RMA, being within 30 working days of service of the notice of decision by the Council.