

**BEFORE THE**

Waikato Regional Council Hearing Commissioners

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of the Proposed Waikato District Plan of Waikato District Council

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**STATEMENT OF DONNA FLAVELL  
ON BEHALF OF WAIKATO-TAINUI IN RELATION TO THE OVERVIEW  
OF EVIDENCE IN HEARING**

**30 September 2019**

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**Te Whakakitenga o Waikato Incorporated  
PO Box 648  
HAMILTON**

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## **1. INTRODUCTION**

- 1.1 Teena koutou katoa. My name is Donna Liarne Arihia Flavell. I am the Chief Executive Officer of Te Whakakitenga o Waikato Incorporated, the tribal governance entity for Waikato-Tainui. My hapuu is Ngaati Te Ata and my marae are Tahunakaitoto and Tuurangawaewae.
- 1.2 Prior to my present role, I was the Principal Advisor at Te Whakakitenga after a three-year secondment as the General Manager, Strategy and Influence at Te Ruunanga o Ngaai Tahu. Before that I was the General Manager of the Waikato Raupatu River Trust, which was the entity established under the 2008/2009 Waikato River Settlement.
- 1.3 I also led the Waikato-Tainui team that provided technical and administrative support to the co-negotiators in the Waikato River settlement negotiations which were concluded with the enactment of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.
- 1.4 I currently hold a number of other roles including being a Director of Te Wai Maaori Trust (a subsidiary of Te Ohu Kaimoana) and advisory roles on many national technical groups, including being the Chair of the Freshwater Iwi Advisors Group.
- 1.5 I reside within the Waikato District Council area, based in Ngaaruawaahia with my whaanau, so my interests in this matter is on many levels – whaanau, marae, hapuu and iwi.

## **2. INTRODUCTION TO WAIKATO-TAINUI**

- 2.1 Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) is the governing body for the 33 hapuu and 68 marae of Waikato Tainui and manages the assets of Waikato Tainui for the benefit of over 76,000 registered tribal members.
- 2.2 Our rohe of Waikato-Tainui is bounded by Auckland in the North and Te Rohe Pootae (King Country) in the South and extends from the West Coast to the mountain ranges of Hapuakohe and Kaimai in the East. Significant landmarks within our rohe include the Waikato and Waipaa Rivers, the sacred mountains of Taupiri, Karioi, Pirongia and Maungatautari, and the West Coast of Whaaingarua (Raglan), Manukau, Aotea and Kaawhia moana.
- 2.3 A significant number of our tribal members reside within the Waikato District Council area and a number of our marae are also captured within the Waikato District Council boundaries.

## **3. SETTLEMENT CONTEXT**

- 3.1 In 1987, Sir Robert Mahuta, for himself and on behalf of the members of Waikato-Tainui, the Trust Board, and Ngaa Marae Toopu, filed a Waitangi Tribunal claim in relation to:
  - (a) the Waikato River;
  - (b) Waikato-Tainui lands, being those confiscated from Waikato-Tainui under the purported authority of the New Zealand Settlements Act 1863, including areas of Auckland; and

- (c) the West Coast Harbours, being Kaawhia, Whaaingaroa, Aotea, and Manukau Harbours.

### ***Waikato Raupatu Lands Settlement***

- 3.2 The Waikato-Tainui Lands Claim (excluding the Wairoa and Maioro land blocks) was settled in 1995 (the Raupatu Settlement). The settlement was valued at \$170m and included the return of land, cash payments, and the relativity mechanism. The Waikato Raupatu Lands Settlement was the first ever Treaty settlement signed in the country. Many of our land assets returned through settlement are held within the Waikato District boundaries (and beyond).

### ***Waikato Raupatu River Settlement***

- 3.3 Both August 2008 and December 2009 were a significant time in our history, with the signing of the Waikato-Tainui Deed of Settlement relating to the Waikato River. The Deed of Settlement was ratified by the members of Waikato-Tainui and signed on 22 August 2008. In 2009, the Crown decided to review aspects of the co-management arrangements for the Waikato River. Waikato-Tainui agreed to revisit the co-management arrangements and subsequently agreed to the enhanced co-management arrangements in the Deed which was signed on 17 December 2009.
- 3.4 In the Waikato River Settlement, Waikato-Tainui and the Crown commit to a new era of co-management over the Waikato River with an overarching purpose to restore and protect the health and wellbeing of the Waikato River for future generations.
- 3.5 The settlement also recognises the special relationship that our people have with the River. Encapsulated within the Deed was the restoration of our ancient right of mana whakahaere, which is a concept of guardianship involving the exercise of rights and responsibilities towards the protection of the River and all its resources in a holistic way – recognising the River’s mana – te mana o te awa.
- 3.6 Furthermore, the Deed for the Waikato-Tainui Raupatu River Settlement is the first of its kind introducing some unprecedented co-governance arrangements. In summary, some of these mechanisms include:
  - (a) The development of a Vision and Strategy for the whole of the River;<sup>1</sup>
  - (b) The weighting of the Vision and Strategy in decision making;<sup>2</sup>
  - (c) The establishment of the Waikato River Authority;<sup>3</sup>
  - (d) The weighting of Tai Tumu, Tai Pari, Tai Ao;<sup>4</sup> and
  - (e) Joint Management Agreements with all decision makers at a local government level.<sup>5</sup>
- 3.7 Waikato-Tainui have continued to advocate for higher consideration of our views in decision making.

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<sup>1</sup> Sections 9-17, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

<sup>2</sup> ibid

<sup>3</sup> Section 22, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

<sup>4</sup> Section 40, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

<sup>5</sup> Sections 41-55, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

#### 4. FUTURE CONTEXT

##### *Waikato-Tainui Strategic Aspirations (Future)*

- 4.1 We are now 24-years post settlement and Waikato-Tainui has an economic base of \$1.7 billion. It is the largest ratepayer in the Waikato Region and District. Waikato-Tainui is a major investor in the Waikato District and beyond with its diversified investment portfolio including retail, residential, commercial, industrial and rural properties and interests in the both the primary sector and tourism.
- 4.2 Our dream for our people is that they are successful in all areas of their lives: committed to Kiatinga, fluent in te reo Maaori, strong in tikanga, healthy, well-educated, financially secure, environmentally conscious and socially sound.
- 4.3 There are three key documents that look to the future and guide and direct our mahi today:
- (a) **Whakatupuranga 2050** is the blueprint for cultural, social, and economic advancement for our people. It is a 50-year long development approach to building the capacity of our iwi, hapuu, and marae.
  - (b) **Ngaa Tohu** is the framework by which we measure our success in achieving Whakatupuranga 2050. We have identified measurable goals under each of Ngaa Tohu Kaupapa, Hapori, Taiao, Whai Rawa, and Mahi Tonu.
  - (c) Our **5 Year Business Plan, Te Ara Whakatupuranga** is the practical short-term plan to achieve the challenge we have laid down in Whakatupuranga 2050 and Ngaa Tohu.
- 4.4 Waikato-Tainui view the Proposed Waikato District Plan as an important first step on the journey toward achieving the long-term objectives set out in the tribe's strategic blueprint - Whakatupuranga 2050 and related Five-Year Plan, He Ara Whakatupuranga, which has been endorsed by our tribal members.
- 4.5 Waikato-Tainui are particularly interested in ensuring any plan focused on growth and development in the Waikato District, is reflective of a Waikato-Tainui perspective and ensures our tribal members have due consideration.

#### 5. MECHANISMS IN THE SETTLEMENT

##### *Te Ture Whaimana: Vision and Strategy for the Waikato River*

- 5.1 The Vision and Strategy was redress to Waikato-Tainui to improve the management of freshwater and ensure all Iwi, water users and the community share a desire for the continual improvement to the quality of freshwater in the Waikato over time in a way that improves the health and wellbeing of people but also our social, cultural and economic prosperity as a district.
- 5.2 Te Ture Whaimana (and its long-term focus) has significant status and is intended to have the same effect as a National Policy Statement. The intention is quite clear and stated clearly in the Deed and the settlement legislation that:

*'The vision and strategy is intended by Parliament to be the primary direction setting document for the Waikato River and activities within its catchment affecting the Waikato River'.<sup>6</sup>*

- 5.3 The intent of the Waikato Objectives within Te Ture Whaimana is to give voice to the tikanga that underpin our mana whakahaere and kaitiaki responsibilities to the River.
- 5.4 Restoration and protection, health and wellbeing, integrated management, avoidance of cumulative effects, precautionary approach, maintenance of our relationships, all have been part of our mana whakahaere tikanga and practice for generations.
- 5.5 Tikanga that is supported by a body of knowledge – maatauranga – that has grown through the long intimate association that our people had with the River and the environment around them.
- 5.6 While the words used to convey our objectives are in English, the intent behind those words are based on the maatauranga and tikanga of Waikato; which implies that to understand them, then you must go back to our people.
- 5.7 I do not propose to go into that intent today – but it is mentioned so that it is understood that the Waikato Objectives of Te Ture Whaimana cannot be interpreted or defined purely on the words in front of you – there is a history, a body of knowledge, a practice and a people that sit within them. We ask that you be mindful of this knowledge base and those very important factors.
- 5.8 For the first time, the significance of the Waikato River to Waikato- Tainui and other iwi is formally reflected in the Deed and settlement legislation. Settlement legislation also gives Te Ture Whaimana statutory recognition and it is the primary direction setting document for the Waikato River. For resource management purposes, it forms part of the Waikato Regional Policy Statement. It also has an effect on 20 other pieces of legislation.
- 5.10 It overrides any National Policy Statement, including the National Policy Statement for Freshwater Management.

### ***Waikato River Authority***

- 5.11 The Waikato River Authority (the Authority) is a single co-governance entity established by statute and its roles and functions are set out in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act, which was passed in May 2010 and its purpose can be summarised as follows:
  - provide direction through the vision and strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations;
  - promote an integrated, holistic and co-ordinated approach to the implementation of the vision and strategy and the management of the Waikato River; and
  - fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-Up Trust.

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<sup>6</sup> Clause 6.5, Waikato-Tainui Deed of Settlement 2009; s5(1) Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

- 5.12 There are ten members on the Authority comprising of five Government nominees, and five iwi nominees; one for each of the five-iwi affiliated with the River – Waikato-Tainui, Ngaati Tuuwharetoa, Raukawa, Te Arawa and Maniapoto. Waikato-Tainui is the iwi co-chair for the first 5 years.
- 5.13 The establishment of the Authority was in a way, tangible recognition to our people that for the first time there will be an entity, with appropriate authority and power, dedicated to being the “voice” or advocate for the River. For the first time, the River’s health and wellbeing is the priority and catalyst for change. Additionally, the Authority reflects the Treaty partnership, equal member of Crown and Iwi and the commitment to work together to restore our Awa Tuupuna. Emphasising that the interests in the River are not Waikato-Tainui’s alone but our community as well.

### ***Tai Tumu, Tai Pari, Tai Ao***

- 5.14 Again, through the Waikato River Settlement, Waikato-Tainui have been able to achieve a strengthened weighting for our Iwi Environmental Management Plan. The effect is outlined as follows:<sup>7</sup>
- (1) A local authority served under section 39(2)(b) preparing, reviewing, or changing a Resource Management Act 1991 planning document **must recognise** the Waikato-Tainui environmental plan in the same manner as would be required under the Resource Management Act 1991 for any planning document recognised by an iwi authority.*
- 5.15 Waikato-Tainui supports and promotes a coordinated, co-operative, and collaborative approach to natural resource and environmental management, restoration, and care within the Waikato-Tainui rohe. Through this Plan, Waikato-Tainui seeks to achieve a consistent approach to environmental management across the Waikato-Tainui rohe.
- 5.16 Further consideration and alignment of Tai Tumu, Tai Pari and Tai Ao needs to be reflected in the Proposed Waikato District Plan.

### ***Joint Management Agreements***

- 5.17 The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 provides for the development of Joint Management Agreements between Waikato-Tainui and the relevant Local Authorities. The purpose of the JMA is to give effect to the Mana Whakahaere of Waikato-Tainui with all JMA partners (co-management), whilst furthering the overarching purpose of the Settlement.
- 5.18 Waikato-Tainui have an existing Joint Management Agreement with Waikato District Council. The following three strategic priorities have been identified for our JMA Committee’s focus until the current Councillor term. The strategic priorities are:
- Maaori Representation
  - Growth and Infrastructure
  - Engagement and Community Development

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<sup>7</sup> Section 40, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

- 5.19 In order to realise the aspirations of our marae and achieving Whakatupuranga 2050, working closely with local authorities on key strategic issues that affect our communities is crucial. The Joint Management Agreements have been an effective tool to bring to life the spirit and intent of the settlement and it is a mechanism that is a catalyst for early engagement.
- 5.20 The Waikato District Council and Waikato-Tainui continue to find alignment and collaborate on key projects as much as possible. This relationship continues to improve over time and to ensure the plan is enduring, the views of Waikato-Tainui should be better reflected in the document.

## **6. LINKS TO THE PROPOSED WAIKATO DISTRICT PLAN**

- 6.1 One of the strategic objectives of Whakatupuranga 2050, is to grow our tribal estate and manage our natural resources; for that reason our goal is to develop self-sufficient Waikato-Tainui marae. Our 68 marae are the backbone of our tribe, and have a significant role to play in sustaining our communities. In order to realise the aspirations of our marae and achieving Whakatupuranga 2050, working alongside Local Authorities is critical.
- 6.2 There are clear opportunities to transform economies within our regions, potential investment in infrastructure; tourism; housing; and marae interests in water ranging from the essential responsibility to care for their water bodies, through to aspirations to generate revenue through the access and use of water.
- 6.3 Our relationships with councils can influence and create opportunities with our existing JMA partners by working collaboratively to map these opportunities across the rohe and from this information develop and improve outcomes for the iwi, both at our marae, our people and our organisation.
- 6.4 There are also wider economic opportunities to invoke the Right of First Refusal (RFR) mechanism to return as much confiscated land to the tribe; and in this instance, consideration of transfers of Council Parks and Reserves to Waikato-Tainui. While this provides some potential economic opportunities for our Marae and tribal members, a more detailed cost benefit analysis will need to be considered together with Waikato District Council and included in the wider strategic plan development.
- 6.5 Building the knowledge base of our marae and tribal members on matters of significance in terms of the Council Plan aspirations and alignment with the Tribal aspirations need to be better co-ordinated.
- 6.6 In order to advance any engagement or development, this requires access to data and the ability to utilise such data to influence change and target resources more effectively.
- 6.7 For Waikato-Tainui specifically access to such data creates the opportunity to inform alignment with the current Waikato District Plan and our strategic documents. Our marae are fundamental to our ability as a tribe to engage directly with our tribal members to hold waananga on issues of importance. Access to data becomes an important part of this process and help to identify where we might be invest in our people and our marae communities alongside our partners.

- 6.8 There needs to be further consideration given to ensuring District Plans are progressed in an integrated and holistic way. It is particularly important that changes intended to promote residential economic development are balanced and do not undermine the existing environmental principles of the freshwater management regime.

## 7. CONCLUSION

- 7.1 While there is a strong emphasis on the health and wellbeing of the river in the settlement, Waikato-Tainui also seeks a path where cultural, social, environmental and economic aspirations work hand in hand. Waikato-Tainui had economic aspirations which were undermined by the Raupatu. This is also reflected in the Waikato River Deed of Settlement:

The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including our *economic, social, cultural, and spiritual* relationships.

- 7.2 Given that we hold Joint Management Agreements with all the relevant territorial authorities which strongly emphasise an agreed platform for co-management of the River, this demands the removal of any such imposed siloes or an ad hoc approach.
- 7.3 In good faith, Waikato-Tainui is of the view that the Council will uphold our agreements and will have the iwi at the table at all phases of co-design and implementation of any mechanisms arising from this Proposed Waikato District Plan.
- 7.4 Where mechanisms have already been developed, we should rightfully expect that the Council will call in those mechanisms as they pertain to our area of interest as recognised under our River Settlement and will jointly review and agree them with Waikato-Tainui before they are implemented.
- 7.5 Te Ture Whaimana holds a unique place in the Resource Management Act 1991 (RMA) planning hierarchy. It has led to a fundamental change in the application of the provisions of Part 2, providing for a regional application of the requirements of the RMA to the Waikato River catchments.
- 7.6 The Proposed Waikato District Plan maps out an encouraging path that represents the many opportunities that I believe would accelerate our communities' growth, which has a flow on effect for our iwi. However we cannot do this on our own. The Proposed Waikato District Plan is the next step to advance our journey toward achieving prosperous communities and it makes sense that Waikato-Tainui want to be able to take a leading role in this through an integrated approach amongst our relative communities from marae, hapuu, iwi and local government.

*Tooku awa koiora me oona pikonga he kura tangihia o te maataamuri.*

*The river of life, each curve more beautiful than the last.*