

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

AND

IN THE MATTER Variation 3 to the Waikato District Plan

JOINT WITNESS STATEMENT (JWS) IN RELATION TO:

Enabling Housing Supply Variation 3 and PLANNING (4)

11 July 2023

Expert Conferencing Held on: 11 July 2023

Venue: Online

Independent Facilitator: Marlene Oliver

Admin Support: Sandra Kelly

1 Attendance:

1.1 The list of participants is included in the schedule at the end of this Statement.

2 Basis of Attendance and Environment Court Practice Note 2023

2.1 All participants agree to the following:

- (a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
- (b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
- (c) They will make themselves available to appear before the Panel;
- (d) This statement is to be filed with the Panel and posted on the Council's website.

3 Matters considered at Conferencing – Agenda and Outcomes

I. Te Ture Whaimana.

- a. The experts acknowledge that Te Ture Whaimana is the primary direction setting document and a key statutory document for the Waikato River and its catchment, the provisions included in Variation 3 need to give effect to Te Ture Whaimana.

2. Proposed amendments to rules in submitter evidence

- a) Section 32aa version of the planning provisions - dated 20 June 2023. It was agreed that this version would be used as the basis for expert conferencing.

b) Flooding Hazards and Stormwater Management

- i. Drafting error - Section 32aa report drafting error – Katja Huls confirmed that there is only one stormwater overlay labelled “stormwater constraints overlay”. This overlay covers the new modelled flood plains and the existing mapped flood plains within the urban fringe area.
- ii. Flood hazards modelling – Andrew Boldero confirmed that a revision of the flood plain model results will be issued with Council experts rebuttal (if possible). This will also result in a revision of the stormwater constraints overlay.
- iii. Fiona Hill advised that there are two appeals to the Proposed District Plan that directly relate to the matters subject to this conferencing. The appeals have been lodged by Anna Noakes and Fruhling Trust which relate to WWRSR1 and possibly the impervious surface standard. The other appeal has been lodged by Waikato Regional Council and relates to the definition of flood plain in the Proposed District Plan. At the time of this conference no consent orders have been lodged on these two appeals.
- iv. The stormwater constraints overlay as a QM (technical and planning). Council has used the term “stormwater constraints overlay” to describe flooding hazards (i.e.1% AEP + Climate Change).
 - A. The experts agree that flooding/natural hazards are an applicable qualifying matter under section 77I(a) - management of significant risks from natural hazards.
 - B. Matthew Davis, Keith Martin, Andrew Boldero, Katja Huls, Fiona Hill, David Badham and Giles Boundy consider that urban development in a flood plain should be discouraged.

Phil Jaggard, Mark Tollemache, Michael Martin, Will Moore, Ryan Pitkethley, Andrew Wood, Jignesh Patel, Sir William Birch and James Oakley consider that there is a lot of nuance to the term flood plain, therefore “discourage” is a step too far. It depends on the assessment of affects, design of development and risk. They consider that urban development in a flood plain should be managed (which includes, for example avoiding urban development in a high risk flood plain as per the relevant RPS policy).
 - C. The experts agree that urban development within an identified flood plain should trigger a resource consent to evaluate the effects.
 - D. The experts (except Phill Jaggard) agree that it is inappropriate to provide for the permitted yield of MDRS (3 units per site) within an identified flood plain and therefore this is an appropriate constraint in Variation 3 to development.

Phil Jaggard does not agree with the statement above (para D). His position is that a district-wide plan change is required to address flood hazards.

- E. The experts agree that the council should consider their preferred method of identifying the flood plain / hazard area through either a definition or a map or a combination, noting that certainty is required in plan drafting with respect to the rule trigger and properties or developments that the rules apply to. The council should provide an explanation of their preferred method and how it relates to the Variation 3 rules.
- F. The experts acknowledge that the scope limitations of Variation 3 mean that an additional wider plan change/variation is required, acknowledging that there are outstanding appeals to the PDP, to comprehensively address the stormwater and flooding issues in urban areas as highlighted in the Te Miro Water report.

c) Clarification of drafting in relation to Stormwater constraints overlay

Mark Tollemache raised concerns that the drafting of the rules (and the Section 32aa paragraph 11.2.5) relating to stormwater (eg SUB-R153) use the terms “site” and “part of the site” interchangeably. This creates uncertainty whether the intention is that rules for example building coverage and lot sizes, are intended to apply to the site or only to part of the site within the overlay. This uncertainty has significant implications for large greenfield sites where if it was the site as a whole, this affects development opportunities and the use of the MDRS.

In response to Mark Tollemache’s concerns, Katja Huls acknowledged that there is a need to review the wording used in a number of rules so that it is clear how the rule is to apply. For example: SUB-R153 clause C.

James Oakley raised the suggestion of using a building platform or shape factor instead of minimum lot size.

The experts agreed to have a separate expert conferencing discussion in relation to this matter. Katja Huls will coordinate organising such a session.

d) Impervious surfaces

- i. The experts agree that the impervious surface standard (MRZ-S7) be retained.

e) Impacts of stormwater runoff from urban development to downstream rural land.

- i. Matthew Davis considers additional provisions should be included in Variation 3 (and the wider PDP) to ensure that any potential adverse effects on downstream properties are included in the assessment of development proposals and that such adverse effects are managed.
- ii. Andrew Boldero considers that the concerns raised by Matthew Davis above are included in the existing documentation.
- iii. Mark Tollemache considers that there is limited scope to address this issue within Variation 3 and it is best addressed in the Anna Noakes et al appeal proceedings to the PDP.
- iv. Fiona Hill will coordinate an additional online discussion on this topic.

f) Stormwater quality assessments and rule WWS-RI and interface with the flooding rules.

- i. Matthew Davis considers that no technical assessment has been made in relation to stormwater quality impacts that might arise from intensification. This topic can be included in the discussion being arranged under paragraph 3.2(e) above.
- g) Whether the low impact design references or provisions are sufficient.
 - i. Rule WWS-RI applies to this matter. This topic can be included in the discussion being arranged under paragraph 3.2(e) above.
- h) How has the cumulative effect from intensification been considered in variation 3.
 - i. This topic can be included in the discussion being arranged under paragraph 3.2(e) above.
- i) Note that for the further discussion being organised to discuss items 3.2 (e-h) above, Mathew Davis' evidence, including annexure 5, is relevant.
- j) Further expert conferencing – Topic: minimum vacant lot size 450m² in the minimum lot size restriction area.
 - i. Fiona Hill will coordinate setting up a discussion between planning and urban design experts to discuss this topic. Fiona Hill and Mark Tollemache to prepare the agenda.

4 PARTICIPANTS TO JOINT WITNESS STATEMENT

4.1 The participants to this Joint Witness Statement, as listed below, confirm that:

- (a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
- (b) They have read the Environment Court's Practice Note 2023 and agree to comply with it; and
- (c) The matters addressed in this statement are within their area of expertise; and
- (d) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position in relation to this para 4.1 to the Independent Facilitator and the other experts and this is recorded in the schedule below.

Confirmed online: 11 July 2023

EXPERT'S NAME & EXPERTISE	PARTY	EXPERT'S CONFIRMATION REFER PARA 4.1
Fiona Hill (P)	Waikato District Council	Yes
Katja Huls (P)	Waikato District Council	Yes
Andrew Boldero (E)	Waikato District Council	Yes
Keith Martin (Waters Manager)	Waikato District Council	Yes – participated up to 3.2(d)
Matthew Telfer (Operations Manager)	Water Care	Yes – participated until 2:00pm
Giles Boundy (P)	Waikato Tainui & Turangawaewae Marae	Yes
Kahurimu Flavell (Project Advisor)	Waikato Tainui	Yes – intermittent participation
Andrew Wood (P)	61 Old Taupiri Limited, Swordfish Projects Limited, 26 Jackson Limited, 99 Ngaruawahia Limited and Next Construction Limited	Yes
Sir William Birch (Surveyor)	Pokeno West (Chen Shui)	Yes
Will Moore (E)	Pokeno West (Chen Shui)	Yes
Jignesh Patel (E)	Pokeno West (Chen Shui)	Yes
James Oakley (P)	Pokeno West (Chen Shui)	Yes
Phil Jaggard (E)	Kainga Ora	Yes
David Badham (P)	Pokeno Village Holdings	Yes
Matthew Davis (E)	Anna Noakes	Yes – abstaining from 3.2d, 3.33c, 3.3d(i)
Mark Tollemache (P)	Havelock Village	Yes
Ryan Pitkethley (E)	Havelock Village	Yes – participated up to 3.2(d)
Katrina Andrews (P)	Waikato Regional Council	Yes
Michael Martin (E)	Synlait	Yes