

BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS IN THE WAIKATO REGION
I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHEKE WAIKATO

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of Proposed Variation 3 to the Waikato Proposed District Plan (PDP)

SUPPLEMENTARY STATEMENT OF EVIDENCE OF GILES CRAWFORD BOUNDY ON BEHALF OF
TUURANGAWAEWAE MARAE AND TE WHAKAKITENGA O WAIKATO (WAIKATO-TAINUI)

(Planning)

Dated 1 August 2023

1.0 INTRODUCTION

- 1.1 My name is Giles Boundy. I am a Principal Consultant at GMD Consultants Limited. My experience and qualifications are set out in my Evidence in Chief (EIC) dated 7 July 2023.
- 1.2 As set out in my EIC, I have read and agree to comply with the Code of Conduct for Expert Witnesses as set out in the Environment Court Practice Note 2023.
- 1.3 Since filling my EIC I have attended expert conferencing sessions regarding stormwater. I have also had the opportunity to read and considered aspects of the rebuttal evidence on behalf of Waikato District Council and their legal submissions related to my EIC. I also took the opportunity to attend the opening day of the hearing in person.
- 1.4 This summary statement of evidence focuses on matters arising from the s42A rebuttal and addresses:
- a) A summary of matters that I support;
 - b) Tuurangawaewae Marae Surrounds Qualifying Matter and the outlook from Tuurangawaewae Marae; and,
 - c) Effects on cultural values as matter of discretion.

2.0 S42A REBUTTAL - MATTERS I SUPPORT

- 2.1 I support the inclusion of a matter of discretion to address consistency with relevant catchment management plans recommended in the s42A rebuttal for MRZ2-S1 (Residential unit), MRZ2-S4 (Setbacks), MRZ2-S5 (Building coverage)¹, MRZ2-S10 (Impervious surfaces). For completeness, this matter reads as:

Consistency with the relevant stormwater catchment management plan

- 2.2 I support the additional of the requirement for a Stormwater Management Plan addressing both 4 residential units and subdivision containing 4 or more lots in the MRZ2 via the Rule WWS-R1A. I consider this necessary and appropriate in the context of Variation 3.
- 2.3 I also support the inclusion of an advice note advising of water, wastewater and stormwater connection approvals at MRZ2-S1 (Residential Unit), SUB-R152 (Subdivision – general), SUB-R153 (Subdivision - general) and SUB-R154 (Subdivision – residential) which sets out the presence of infrastructure does not guarantee available capacity or connection approval. It is my view however that Council will need to keep a watching brief on the efficacy of managing water and wastewater capacity through connections bylaws, and if the need arises consider an approach which embeds this matter in the Proposed District Plan, such as through infrastructure

¹ I consider that if the panel are minded to include a matter of discretion addressing stormwater catchment management plans in MRZ2-S5 (Building Coverage) that the same matter of discretion be included in MRZ2-S5A (Building Coverage within the Tuurangawaewae Marae surrounds QM).

capacity assessments as a consent trigger determined by the scale of a residential development. I understand neighbouring Hamilton City Council is addressing this in their Plan Change 12.

- 2.4 Regarding Rule SUB-R153 (Subdivision - general), I support the updated matters of discretion provided in the s42A rebuttal. In particular I support matter of discretion (L) which reads as:

(l) In the Waikato River Catchment the extent to which the application enhances or benefits the Waikato River and its tributaries;

- 2.5 I support this approach as a method of implementing Te Ture Whaimana Chapter over the prior approach of referring back to the objectives and policies in the Te Ture Whaimana chapter².
- 2.6 I further support the inclusion of the matters of discretion relating to the enhancing or benefiting the Waikato River and its tributaries as addressed in the S42A report and as addressed in the rules contained in the appendices to the s42A rebuttal. I see these as contributing to the betterment of the Waikato River and its tributaries. I also note these are framed by “the extent to which” which covers the matter of proportionality.

3.0 TUURANGAWAEWAE MARAE SURROUNDS QUALIFYING MATTER AND THE OUTLOOK FROM TUURANGAWAEWAE MARAE

- 3.1 Paragraphs 10.1 to 10.28 of my EIC address matters relating to Tuurangawaewae Marae Surrounds Qualifying Matter. The basis for this Qualifying Matter is set out in the s42A report and has been set out in the Legal Submission on behalf of Waikato District Council at paragraphs 90 to 107. The section 42A rebuttal addresses matters arising from my EIC at paragraphs 74 to 77. Both Ms Hill and Ms Parham addressed these matters on the opening day of the hearing and Mr Mansergh has outlined his visual assessment and recommendations contained in his EIC. I agree with and support the basis for the Qualifying Matter and its inclusion in the Proposed District Plan through Variation 3.
- 3.2 The s42A rebuttal has recommended specific Rules addressing Tuurangawaewae Marae Surrounds Qualifying Matter. Should the IHP agree with inclusion of this Qualifying Matter in my view that identification of spatial extent on planning maps is necessary to make clear the extent of the area, and ultimately where the recommended rules MRZ2-S2A (Height within the Tuurangawaewae Marae Surrounds QM), MRZ2-S3A (Height in relation to boundary in the Tuurangawaewae Marae surrounds QM) and MRZ2-S5A (Building Coverage within the Tuurangawaewae Marae surrounds QM) would apply. That being Area D in Annexure 11 of Mr Mansergh’s EIC, which I note is further included at Figure 27 of the S42A report.
- 3.3 I agree with paragraph 76 of the s42A rebuttal report as regards including an additional matter of discretion for MRZ-S2 (Building height - general), MRZ-S3 (Height in relation to boundary)

² The approach of refereeing back to the objectives and policies in Chapter 2-2- Te Ture Whaimana remains in the s42A recommendations for MRZ2-S13 but this is in combination with a matter of discretion which similarly is targeted at enhancement or benefits to the Waikato River.

and MRZ-S5 (Building Coverage) and the specific inclusion of the Waikato Awa in this context. The addition matter of discretion included in those rules is:

In Ngaaruawaahia the potential to adversely effect the outlook from Tuurangawaewae Marae to Hakarimata Ranges, Taupiri Maunga, and Waikato Awa

3.4 I consider the above is an improvement on what I earlier sought in Paragraph 10.21 of my EIC. And better captures what has been recommended in the evidence of Mr Mansergh. Inclusion in rules MRZ-S2, MRZ-S3 and MRZ-S5 and makes clear that this is a matter for consideration in Ngaaruawaahia beyond the area more proximate the Marae (Area D).

3.5 Additionally, I would suggest, that if scope allows, a matter of discretion be included in the building height rules for the Town Centre Zone and Commercial Zone. That would cater for the scenario of where a height breach in the case of the town centre zone could lead to a loss of outlook from Tuurangawaewae Marae to the Hakarimata.

3.6 To that end for TCZ-S3 (Building height) and COMZ-S4 (Building height) I would support a matter of discretion similar to that recommended in the s42A rebuttal for the MRZ-s2 (building height -general) but focussed on the outlook to the Hakarimata as follows:

In Ngaaruawaahia, the potential to adversely effect the outlook from Tuurangawaewae to Hakarimata Ranges.

3.7 Paragraph 77of The Section 42A rebuttal identifies an additional policy for the MRZ Zone which is as follows:

In Ngaaruawaahia, provide for the cultural heritage relationship between Tuurangawaewae Marae the Hakarimata Ranges, Taupiri Maunga and the Waikato Awa.

3.8 I support inclusion of a policy as it would augment the specific rule framework developed for the Tuurangawaewae Marae Surrounds Qualifying Matter and the more general matters of discretion relating to the outlook from Tuurangawaewae Marae which are recommended for addition in MRZ2-S2 (Height – building general).

3.9 However, I don't consider the term 'heritage' in context of this policy is necessary and that removing reference to it would better address section 6(e).

3.10 If scope allows, and if the panel are minded to including an additional matter of discretion for building height in the Town Centre Zone and Commercial Zone, I consider policy direction is necessary for those zones consistent with approach recommended in the s42A rebuttal for the MZR2. On that basis, I would suggest the following policy.

In Ngaaruawaahia, provide for the cultural relationship between Tuurangawaewae Marae and the Hakarimata Ranges.

4.0 EFFECTS ON CULTURAL VALUES AS MATTERS OF DISCRETION

- 4.1 Paragraphs 8.1 to 8.6 of my EIC addressed the matter of including cultural values as a matter of discretion in rules MRZ2-S1, S2 and S3, including through reference back to the Maaori Values and Maatauranga chapter of the District Plan or alternatively through more explicit reference to the effects on mana whenua. These matters related to the submission of Waikato-Tainui.
- 4.2 Councils s42A rebuttal at paragraph 146, does not support including broad reference to effects on cultural values through reference back to the Maaori Values and Maatauranga Chapter but found general benefit in a narrower or more specified approach.
- 4.3 In Day 1 of the hearing Ms Lepoutre addressed her general support for a more refined approach rather than a blanket approach around instances where cultural values may be affected and warrant a higher level of scrutiny. Ms Lepoutre highlighted that I would provide further analysis on this matter.
- 4.4 I recognise that for a consenting planner having a narrower or clearer range of matters to guide their consideration of application would be advantageous. Whilst I am not an expert in cultural matters, I do have concern though that making a matter of discretion particularly narrow or specific may be counterproductive and only serve to exclude consideration of values that may be identified through engagement with mana whenua at time of consent.
- 4.5 Consideration of mana whenua values at the local level through consents and the use of assessment criteria in zone chapters is explicit in the Proposed District Plan through the Maaori Values and Maatauranga Maaori Chapter. The Maaori Values and Maatauranga Maaori Chapter opens with the following:

This chapter addresses values of importance to Maaori and the following provides an explanation and description of identified values of importance to Maaori. These values are represented in the objectives and policies of this chapter and particular zone rules. As such this chapter is to be read in conjunction with zone chapters which contain matters of discretion to address the effects of certain activities and land uses on mana whenua values.

- 4.6 I note MV-01 is relevant and addresses the Maaori values as follows:

(1) Maaori values are recognised and mana whenua are able to exercise kaitiakitanga, Manaakitanga, tikanga and mana whakahaere.

(2) Recognise that only tangata whenua can determine effects on their values, traditions, resources, waters, sites of significance, waahi tapu, other taonga and taonga species.

4.7 The effects on values held by mana whenua is further addressed in the Maaori Values and Maatauranga Maaori Chapter at MV-P5(1) and (2). MV-P5(1) is as follows:

(1) Manage the effects of subdivision and land use on Maaori values, in particular those arising from the following:

- (a) Quarrying industry;*
- (b) Waste management facilities;*
- (c) Hazardous waste storage;*
- (d) Intensive farming;*
- (e) Earthworks within the vicinity of the Waikato River and other water bodies within the Waikato River Catchment;*
- (f) Subdivision;*
- (g) Building and structures in water body setbacks;*
- (h) Modification or clearance of indigenous biodiversity within Significant Natural Areas;*
- (i) Activities within identified landscape and natural character areas, on or within the vicinity of maunga and other landforms or sites of cultural significance; and*
- (j) Activities on the surface of waterbodies.*

4.8 MV-P5 (2) reads:

(2) Manage the effects of subdivision and land use on Maaori values, including by:

- (a) Providing for the opportunity for engagement with mana whenua prior to undertaking activities or applying for resource consent and addressing the outcomes of that engagement;*
- (b) Providing the opportunity for mana whenua to assess the effects on Maaori values such as through cultural impact/values assessments;*
- (c) Recognising and providing for customary uses of resources including hauanga kai;*
- (d) Recognising and providing for maatauranga Maaori, including as expressed through kaitiakitanga and tikanga;*
- (e) Recognising that iwi, hapuu and whaanau are owners and kaitiaki of Maatauranga; and,*
- (f) Recognising and providing for tangata whenua relationships with ancestral lands, water, sites, waahi tapu and other taonga to be maintained or strengthened.*

4.9 MV-P5(1) and (2) is further framed by the recognition that values will vary across the district and that values can be identified through engaging with mana whenua at a local level (MV-P4(2)). It is my view that the Maaori Values and Maatauranga Maaori Chapter provides a strong basis for identification of values by at a local level through the consent process. It is also clear that the Maatauranga Maaori Chapter works in conjunction with zone chapters as regards matters of discretion as set out in the opening text to the Chapter noted in paragraph 4.5 above.

4.10 So as not to limit a broader consideration of values which may come to the fore through the consent processes, but to provide a degree of specificity I consider that there are instances where it would be common for there to be cultural values which could be impacted by

development, and where there is an increased importance for assessing cultural effects. I consider that this can be informed by considering the proximity of features and areas already identified in the Proposed District Plan.

- 4.11 To that end, to both retain a relatively broad consideration of ‘cultural values’ but framed by more specific matters and considered in the context of effects on values held by mana whenua, I suggest the following matter of discretion for MRZ-S1, MRZ-S2, MRZ-S2A, MRZ-S3 and MRZ-S3A:

(x) The effects on values held by mana whenua in particular where:

- (i) Sites contain or are adjacent archaeological sites, Sites and Areas of Significance to Maaori, Significant Natural Areas, Outstanding Natural Features or Outstanding Natural Landscapes.
- (ii) Sites are adjacent to marae or Open Space Zone.

- 4.12 My preference is for the term adject rather than ‘adjoining’ to address the situation of sites being proximate by separated from the listed features to address scenarios such as sites being separated by esplanade reserve or road (formed or unformed legal road).
- 4.13 Should scope provide, to address the matter of subdivision the above matter of discretion could be applied to SUB-R153 (Subdivision - general) to address the matter at subdivision.

5.0 CONCLUSION

- 5.1 I support the recommendations of the s42A rebuttal including as regards addressing consistency with catchment management plans, the requirements for a stormwater management plan, advice notes highlighting connection approvals outside of the plan and matters of discretion addressing enhancements and benefits to the Waikato River as addressed in the s42A rebuttal recommended text.
- 5.2 I support the recommendations addressed in the s42A rebuttal regarding the Tuurangawaewae Marae Surrounds Qualifying Matter and the outlook from Tuurangawaewae Marae. I consider that minor wording amendment is necessary to the suggested additional policy relating to this matter contained in the S42A rebuttal recommended text.
- 5.3 I consider that, if scope allows, to more fully address the outlook from Tuurangawaewae Marae that a matter of discretion should be addressed in the respective building height rules of the Town Centre Zone and Commercial Zone and that this should be similarly supported by additional policy in those zones.
- 5.4 Whilst I am not an expert on cultural matters, I have a general concern of narrowing the consideration of effects on cultural values and my view is that these are ultimately best determined by mana whenua at the local level and through the consent process. I consider that

approach is embedded in the Proposed District Plan through the Maatauranga Maori and Maori Values Chapter. That chapter, which applies district wide, also addresses the use of matters of discretion at the zone level. I consider that effects on values held by mana whenua can be addressed as a matter of discretion through referencing existing features recognised in the Proposed District Plan.