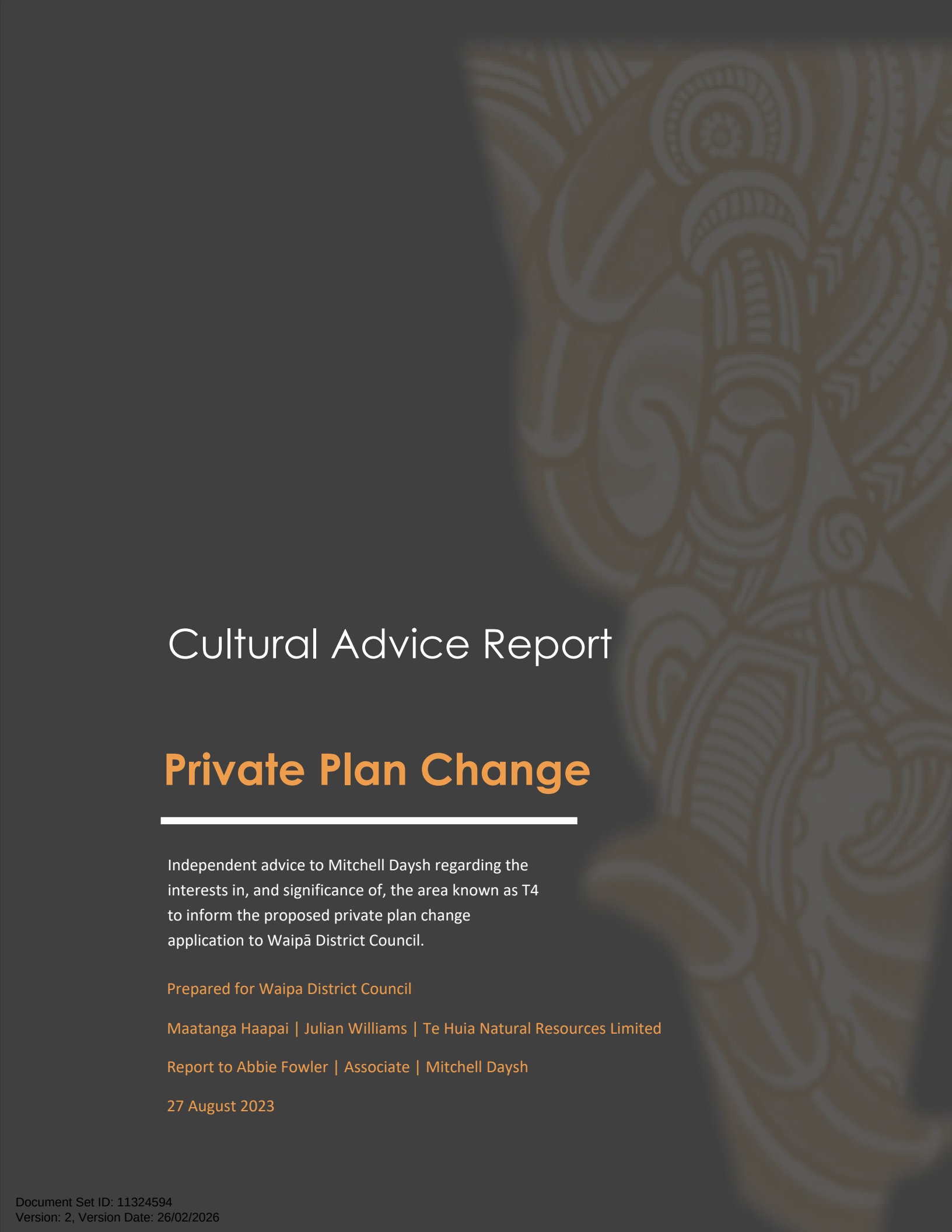




APPENDIX F

Cultural Advice Report



Cultural Advice Report

Private Plan Change

Independent advice to Mitchell Daysh regarding the interests in, and significance of, the area known as T4 to inform the proposed private plan change application to Waipā District Council.

Prepared for Waipa District Council

Maatanga Haapai | Julian Williams | Te Huia Natural Resources Limited

Report to Abbie Fowler | Associate | Mitchell Daysh

27 August 2023

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1. EXECUTIVE SUMMARY

This Cultural Advice Report provides advice, or an early assessment, for the potential cultural impacts of the proposed Private Plan Change. The report seeks to inform the Waipa District Council (“WDC”) about matters of importance to mana whenua, based on previous works undertaken by Te Huia Ltd in this space. It includes a brief background to the application, known cultural values and expectations of mana whenua if the plan change is granted. This is not a Cultural Values Assessment as the full scope of activities for the development have not yet been determined.

The application is for a private plan change to rezone a site from ‘deferred residential’ zoning to medium density ‘residential’ zoning. If the application is granted, the author recommends that a Mana Whenua Statement, or Cultural Values Assessment, be commissioned once the full set of activities is confirmed. Phone contact has been made with the chair of Ngāa Iwi Toopu o Waipaa (NITOW) and a representative of Ngāti Apakura who are a collective of representatives for the Te Awamutu Area, and also Waikato-Tainui.

Mana Whenua consider the need for continued engagement and consultation with the Developer during all stages of development if the plan change is approved. In summary, the recommendations for WDC consideration are:

1. *WDC and mana whenua reciprocate obligations to Te Tiriti o Waitangi through continued engagement, regarding any proposed developments, to actively provide for the considerations in this report.*
2. *A full mana whenua assessment should be undertaken against development activities. Mana whenua should determine the appropriate provider for the cultural assessment.*
3. *That the developer continues to facilitate and resource ongoing engagement with mana whenua.*
4. *Where possible the development should provide opportunities to share mana whenua stories, provide for expressions of cultural history especially given its location to Otawhao Pā.*
5. *Mana whenua and the developer should clearly identify opportunities to restore and protect the health and wellbeing of taonga associated with the Waikato and Waipā Rivers.*
6. *Solutions proposed in the SMP and CMP where mana whenua have had direct input should be applied.*
7. *Mana whenua to work with the developer to designate where onsite water conveyance pathways and water service structures (abstraction / discharge) should be.*
8. *As archaeological report be commissioned by Mana whenua to determine what areas should be protected from development and the process for its recognition.*
9. *Mana whenua will apply appropriate protocols to be implemented e.g. discovery protocols.*
10. *A full assessment of proposed activities against the objectives of Te Ture Whaimana.*

For WDC, it was noted by the Ngāti Apakura representative that they wish to work alongside WDC to identify areas of interest, including treaty settlement interests, for all Te Awamutu Future Growth Cells.

These matters are extended in detail further in this report.

Dialectal Conventions

The Report is written with the tohūtō (macrons) for Māori words. Where tāngata whenua have chosen to use double vowels, as is the preferred convention in Waikato, the words have not been altered to suit the authors preference. Direct quotes that reference Māori words with either tohūtō, or double vowels, remain as they are quoted.

2. BACKGROUND

Mitchell Daysh, on behalf of a developer, are lodging a private plan change application at 540 Wallace Terrace and 5 Pokuru Road, Te Awamutu (Site Overview, Fig 1). The proposed plan change seeks to rezone the site from its current 'Deferred Residential' Zoning to medium density 'Residential' Zoning. The site is identified as T4 of the Te Awamutu Future Growth Cells, under Appendix S1 of the Waipa District Plan.



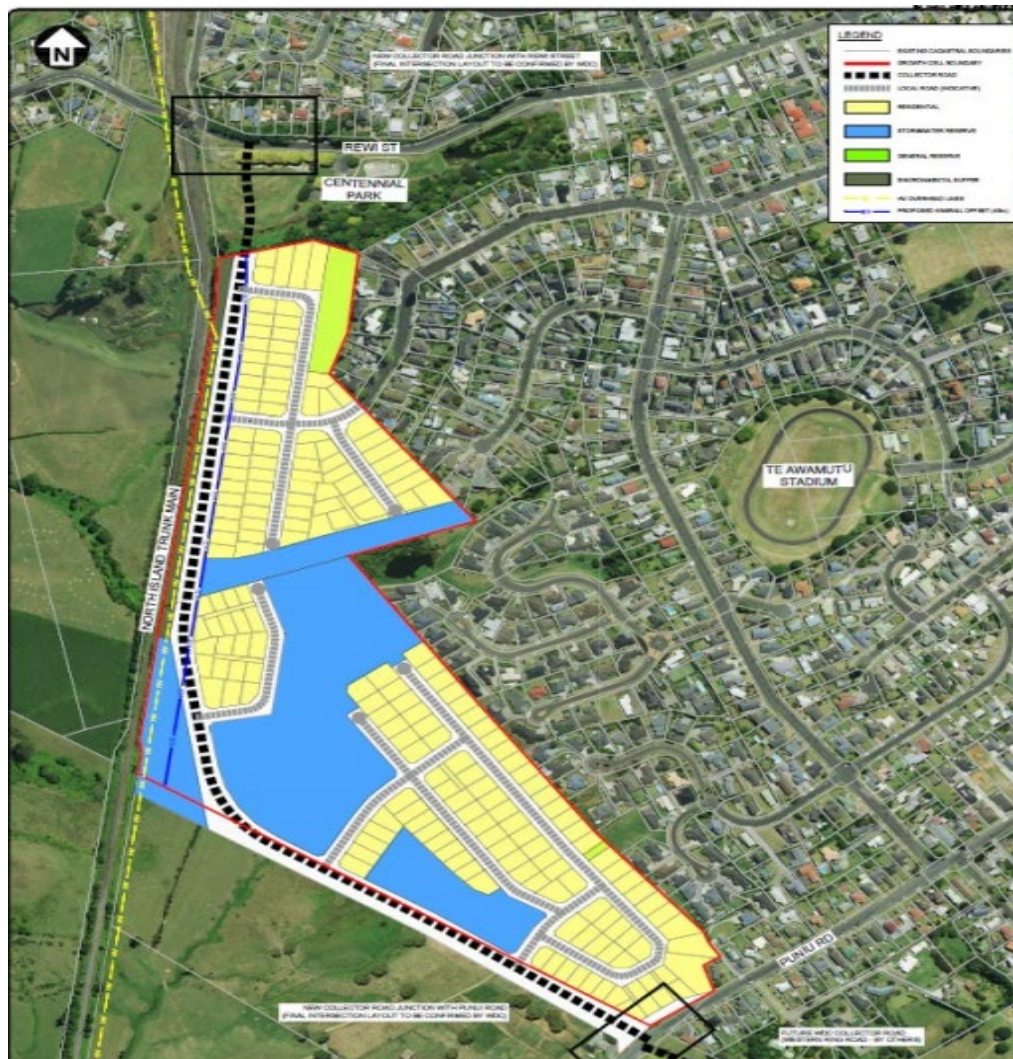
Fig 1: Site Overview

The site is also Identified in “Waipa 2050” (Waipa District Growth Strategy -2017) as a residential growth cell (beyond 2035).

3. SUBDIVISION CONCEPT

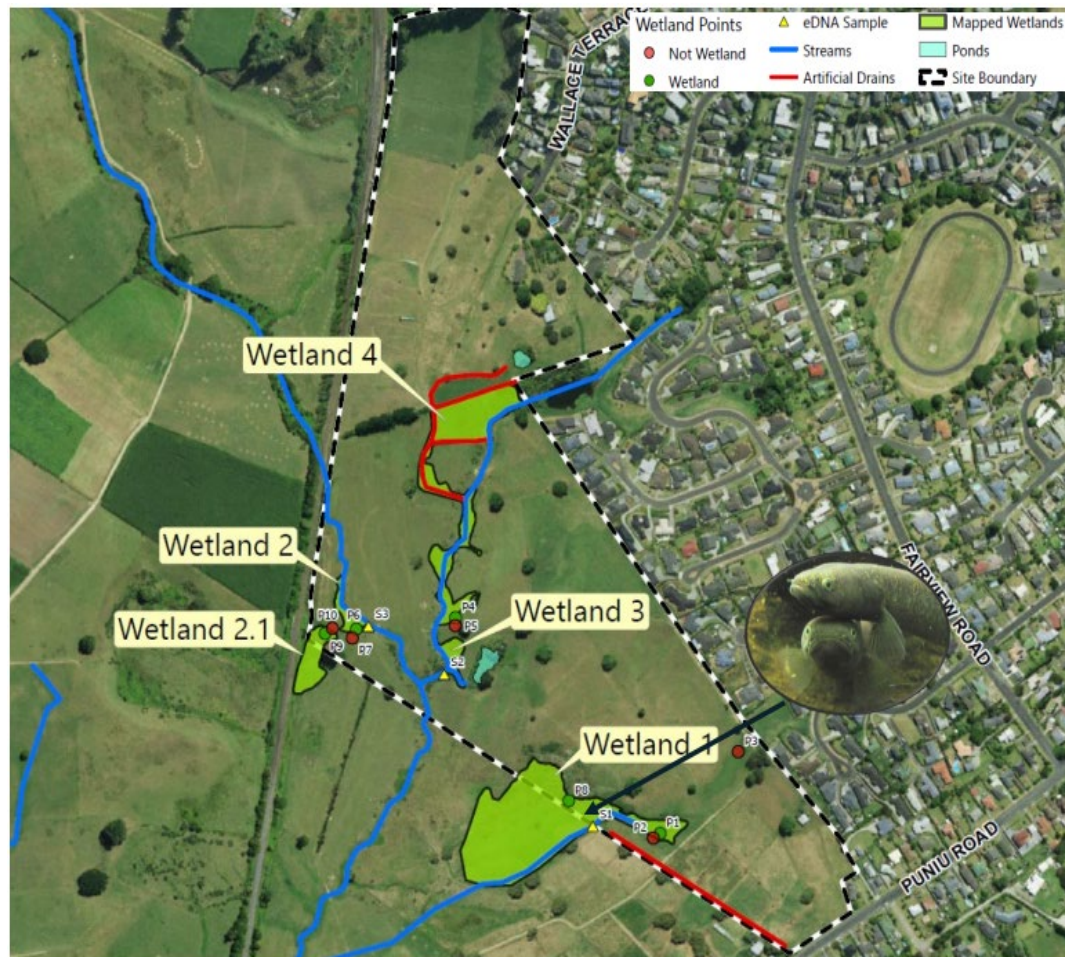
T4 Residential Growth Cell on western side of Te Awamutu township:

- Site is comprised of two existing rural properties (currently zoned deferred residential).
- Estimated yield of around 191 lots.
- The Waipa District Growth Strategy identifies that this cell has a dwelling capacity of approx. 348 dwellings.
- Significant yield loss (when compared to the growth strategy estimates) due to natural inland wetlands on site and the approach to avoidance.



3.1 Existing Natural Wetlands

There is a main stream channel that runs in a north-south direction through the middle of the site, and a tributary that crosses the southwestern corner of the site and merges with the main channel near the southern site boundary. A second stream channel commences in the wetland area in the southeast of the site and merges with the main channel on the neighbouring property to the south.



Areas of natural inland wetland have been identified onsite, predominantly associated with land depressions adjacent to the streams. The wetland habitats are all highly modified as a result of a history of agricultural land use and are not representative of the expected natural habitat. The wetlands are considered to generally be reflective of low ecological value; such wetland habitat is commonly observed throughout the Waikato region.

Most significant constraint identified is the extent of stream and wetland habitat along the southern boundary.

There is however potential for the wetland ecological values to be enhanced, particularly through restoration planting to improve biodiversity, and thereby their contribution to overall catchment health and resilience.

4. MANA WHENUA & TE TIRITI O WAITANGI

4.1 Te Tiriti O Waitangi

Waipa District Council must uphold the duty to honour and give effect to the principles of Te Tiriti o Waitangi.

As an agent of the Crown, the duty of WDC to uphold the principle of partnership is well-established in Treaty jurisprudence. Partnership is a duty on both parties to act reasonably, honourably and in good faith (as upheld by the Court of Appeal), with the Waitangi Tribunal emphasising that these duties are derived from the principle of reciprocity and the principle of mutual benefit. The duty to act in good faith, goes further and obligates WDC to make informed decisions on matters that affect the interests of Māori. This requires the Crown to consult with Māori. In this instance, the interests of Māori are represented by mana whenua noted in the following sections. Lastly, the Crown has a duty to actively protect Māori use of their lands and waters to the fullest extent practicable (as upheld by the Court of Appeal). This is a central Treaty principle, under Article 2 of Te Tiriti, with guarantees in the preamble and Article 3. This principle presumes that the Crown is obligated to preserve and protect tino rangatiratanga of mana whenua over their whenua, kāinga and taonga. The duty of active protection is engaged when a taonga is negatively affected (and is also inclusive of disparities between Māori and non-Māori).

As such, the Crown must uphold a genuine, active and enduring partnership with mana whenua, in ways that:

1. acknowledge their rights to exercise rangatiratanga and kaitiakitanga;
2. acknowledge that tikanga and mātauranga Māori are key to achieving the protection of Article 2 assets; and
3. acknowledge their role at all levels of development and implementation of activities associated with the stormwater discharge consents.

Actively engaging in a genuine and enduring partnership with mana whenua and is key to decision-making that protects the interests of mana whenua and meets the WDC duty of active protection. The Report, hui and discussions held directly between mana whenua, project consultants and Te Huia Ltd aim to achieve the obligations of WDC to Te Tiriti.

WDC has significant Treaty obligations, including the duty to honour and give effect to the principles of Te Tiriti o Waitangi. Te Tiriti is the founding fabric of the relationship.

4.2 Mana Whenua

The comprehensive development covers the catchments for the communities of Te Awamutu and Kihikihi. There are iwi, hapū and marae associated with these places and its taonga. The representation of iwi and hapū who form the collective of Ngaa Iwi Toopu o Waipaa hold “Mana” in these areas.

Each of the iwi, hapū and marae hold an inherent responsibility to sustainably protect taonga, mahinga kai, waters, flora, fauna, taniwha and deities for current and future use, access and enjoyment. For the purpose of this report, the author refers to iwi and hapū as ‘*mana whenua*’.

The rights and interests of mana whenua are confirmed and recognised by WDC supported by the establishment of existing Joint Management Agreements and collaborative partnerships. Their rights and interests within this space do not need to be proven.

Mana whenua hold political and occupational authority over Te Awamutu and the wider area, that is determined by whakapapa (genealogical ties) and secured by ahi kaa (continued occupation). Mana whenua are the people of the land and have a spiritual affiliation to all the taonga that they embrace. Mana whenua continue to occupy and demonstrate their interests to Te Awamutu and Kihikihi.

4.3 Te Whakakitenga o Waikato-Tainui

Te Whakakitenga o Waikato (formerly known as Te Kauhanganui) is the tribal authority that represents tribal members of its 68 Marae. Te Whakakitenga is the governance body that serves to protect and advance the collective interests of the iwi and its beneficiaries. Many of the marae associated with Te Awamutu, are members of the iwi authority. Waikato-Tainui has a Joint Management Agreement with Waipa District Council guided by the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The JMA sets principles for the relationship between the parties. Te Huia Ltd has informed Waikato-Tainui of this report.

4.4 Ngaa Iwi Toopu o Waipa

Ngaa Iwi Toopu O Waipa (NITOW), translated as The Assembled People of Waipā, is a group that represents all hapū in the Waipa District. NITOW meet regularly to consider matters that may impact their area of responsibility and consider associated resource consent applications. They also consider other issues that are brought directly to them for consultation and consideration.

Representatives of NITOW will be affected by the proposed plan change and activities proposed for the development. NITOW includes members from:

- Ngāti Raukawa
- Ngāti Koroki Kahukura
- Ngāti Hauā
- Ngāti Hikairo
- Ngāti Maniapoto
- Ngāti Apakura
- Ngāti Māhanga
- Waikato-Tainui

5. CURRENT MANAGEMENT PLANS

The Developer is responsible for all activities associated with this proposal. Mana whenua have a responsibility as kaitiaki to ensure that best outcomes to restore and protect their taonga is achieved. Therefore, any impacts from the activities of the development must fulfil cultural, spiritual and environmental standards and expectations as determined by mana whenua. Specific details of those expectations will be established in the mana whenua assessment pending the approval of the plan change. However, mana whenua have previously been involved in management plans associated with this catchment area, therefore it is an expectation that the solutions in those plan will prevail.

5.1 Catchment Management Plans

Catchment Management Plans (CMP) have been developed for Te Awamutu and Kihikihi. Mana whenua have informed those CMP's. The CMP's aim to deliver an inter-disciplinary design approach which considers stormwater management in parallel with the ecology, geomorphology, and hydrogeology features in the catchment. The CMP aligns with best practice urban design, amenity and informal recreation, safety, and community cultural values. Overall, the stormwater management is to embed water sensitive design principles to achieve the objectives of Te Ture Whaimana o te Awa o Waikato, or the Vision and Strategy for the Waikato River and its catchment, including the Waipā River.

In a nutshell, each CMP promotes multiple public benefits and will play a key role in developing a unique sense of place for Te Awamutu and Kihikihi. The CMP should deliver high value stormwater solutions for mana whenua and the community and has identified priorities to achieve those solutions.

The solutions proposed in the CMPs must apply to this development if the plan change is granted.

5.2 Stormwater Management Plan

The objective of the SMP is to achieve sustainable outcomes in relation to the management of stormwater for the Council, communities, and stakeholders. Achieving the outcomes is a joint responsibility of Council, Iwi as mana whenua, stakeholders, and communities. The objectives of the SMP are:

1. Further Te Ture Whaimana o te Awa o Waikato;
2. Contribute to access to clean water for recreation, cultural and commercial users;
3. Ensure present and future generations have healthy and productive waterways, and wise stormwater management practices to ensure sustainability and protect water quality;
4. The risks to people and property from natural hazards and accidents are minimised; and
5. The public amenity values associated with stormwater systems and receiving environments will be secured and enhanced.

The solutions proposed in the SMPs must apply to this development if the plan change is granted.

6. TE RIU O NGĀ WAAHI ME ONA HITORI / CATCHMENT OVERVIEW AND HISTORY

The following section describes notable features and provides historic context to the townships and surrounding cultural environment. It is followed by a range of technical information derived from various technical reports that accompany the application for the stormwater discharge.

The Waipā District Council website notes in the “Partnership with Iwi” section that following overview:

Virtually all the tangata whenua, (local people), of Waipā can trace their ancestry to Tāwhao, a direct descendant of Hoturoa the captain of the Tainui canoe.

Waipā District was a very fertile area and was densely populated by Māori for many generations until the land wars of the early 1860's.

The Crown Forces under General Cameron invaded the Waikato which resulted in the confiscation of 1.2 million acres of the Waikato. This included Waipā's fertile agricultural lands with the southern boundary being the Pūniu river.

The indigenous communities were then replaced initially by the garrison towns of Alexandra (Pirongia), Te Awamutu, Kihikihi and Cambridge with much of the land then being balloted to the military settlers.

Furthermore, the Author provides the following to expand on this overview for the Waipā district:

This area falls within the raupatu (confiscation) boundary enabled by the Suppression of Rebellion Act 1863 and New Zealand Settlements Act 1963.

These confiscation policies enabled the Governor of New Zealand the power to confiscate lands belonging to any tribe, or section of a tribe, that was judged to have been in rebellion against the authority of Queen Victoria. The Governor could declare a district within which he could take land for settlement, extinguishing all customary title. The confiscation of lands was used to fund the land wars, repay Crown debt and form part of the remuneration package to members of the colonial militia. The Waikato-Maniapoto lands confiscated totalled 1,202,172 acres.

The scheme for military settlement involved the introduction of 5,000 men, recruited largely from the Otago and Australian goldfields that would entitle them to a town section, a farm section of at least fifty acres (according to rank) and timber to build with. The second Waikato regiment was settled at Whatawhata, Alexandra, Kihikihi and Ōhaupō. The third regiment was placed at Cambridge. These are militia settlements where lands were confiscated from mana whenua, lost forever, Māori were killed and in some cases their bones lay in the beds of lakes, Paa sites destroyed and lands drained for trade.

The impact of confiscation continues to impact the current generation including the ability of mana whenua to access historic areas, gather kai, generate equity and wealth from land stolen, inform decisions related to the management and use of taonga, and protect and restore the health and wellbeing of the Waikato and Waipā Rivers.

7. TE AWAMUTU

Te Awamutu refers to the end of the navigable river. Canoes could navigate from the Waipa River up the Mangapiko Stream as far as Te Awamutu to the confluence of the Mangaohoi Stream. From there travel had to be across land because both streams were blocked by snags and unsuitable for navigation by canoes.

Te Awamutu is forecast to grow by 5,400 people by 2050. There are currently 10,000 people in Te Awamutu.

Notable Features

- Mangaohoi Stream
- Mangapiko Stream
- Ruapahau Stream
- Tupapakuraa (West of Te Awamutu in Mangapiko Stream).

Otawhao Paa

Otawhao, named after the Tainui tupuna (ancestor) Tawhiao, was first visited by missionaries in 1834. It was at Otawhao Pā that the first church was built in 1838, and where in 1839 Reverend Ashwell asked the Whare Kura (Christian Māori) to leave and set up a separate community at Te Awamutu. During this period there was a significant increase in Māori involvement in agriculture, including the establishment of a number of farms and flour mills, largely funded by Māori parishioners. The resulting produce and crops supplied, amongst other places, the Auckland markets.

Kaipaka Paa

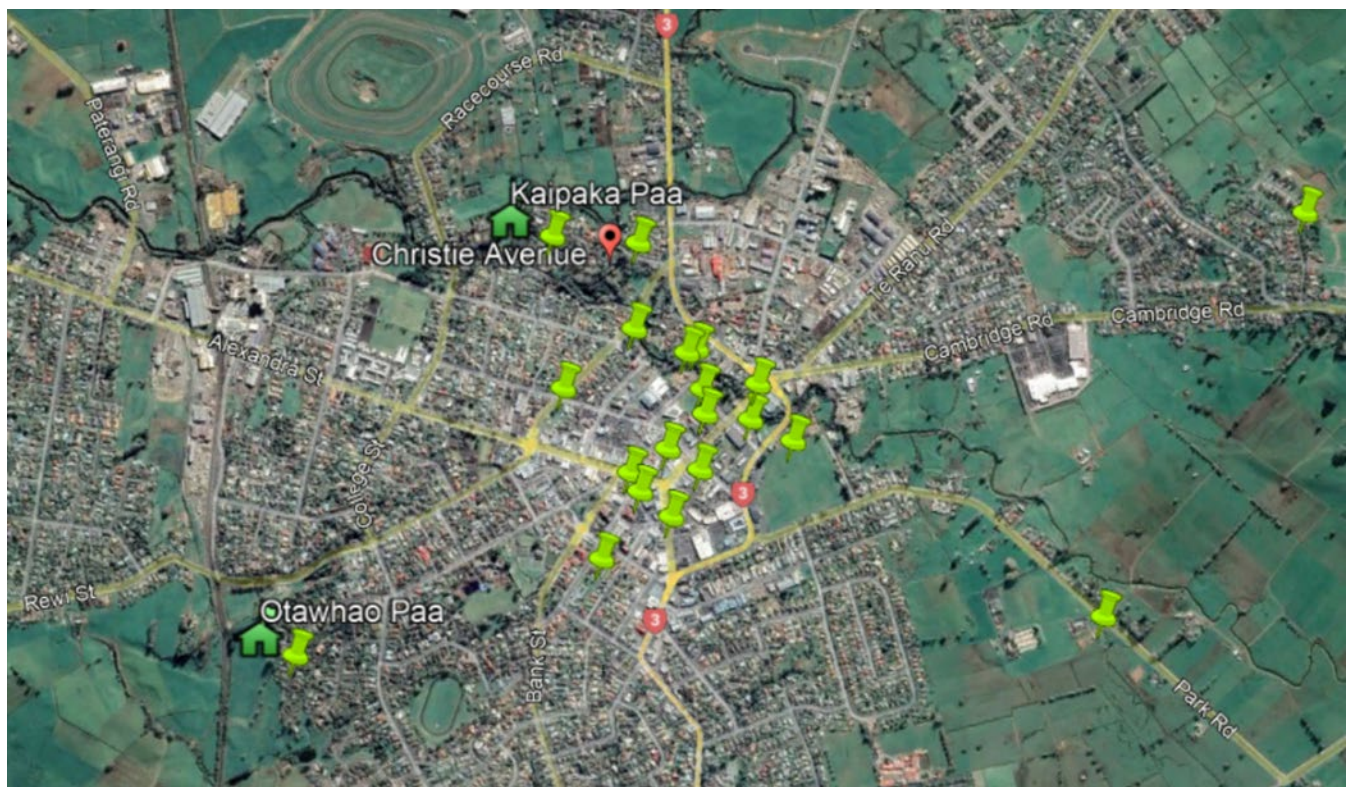
At Te Awamutu there were two important pā; Otawhao, a pā on the hill which is currently Wallace Terrace, and Kaipaka Pā. During this period, at the request of the parishioners, permanent church buildings were erected; St John's (1854) at Te Awamutu, and St Paul's (1856) at Hairini (Rangiaowhia). From within the mission site the printing press Te Pihoihoi Mokemoke began printing, in Maori, opinion opposing that of the King Movement newspaper Te Hōkioi. In March 1863 Ngāti Maniapoto seized the government press, and only after negotiation returned it onto the Queen's land at Te Ia.

Hingakaka (2.7km NW)

There are two versions as to the naming of Hingakaka.

- Hingakaka, they fell into their enemies' hands as fish hauled up in the kind of net called kākā, hence the name of the battle of Hingakaka.
- So many chiefs died in the battle that it is known as Hingakaka (the fall of parrots), an echo of the traditional mass parrot hunt.

Te Mangao is the name of the place where the battle of Hingakaka was fought in the late 1700's; it is about a mile and a-half from Otawhao. The "take", or cause, happened about three years before the battle. Pikauterangi, a chief of Ngāti Toa from the Marokopa district was aggrieved over the poor distribution of the kahawai fish harvest, according to Pei Te Hurinui Jones. Other accounts say that Pikauterangi took the biggest fish for himself and he was seized and ducked to the point where he nearly drowned. In vengeance he killed members of the Ngāti Apakura, who were one of the hapu hosting the fish feast, cooked their bodies and distributed them for eating among Ngāti Kauwhata and Ngāti Raukawa. The attackers, a force of 7,000 to 10,000 warriors, combined at Otorohanga They invaded the Waipa District, to restore Pikauterangi's honour. 16,000 warriors are said to have taken part. Combatants included Waikato-Maniapoto, Ngāti Toa and Ngāti Raukawa. Ngāti Raukawa alone are said to have lost 1,600 warriors in battle



Further discussions need to be held with Ngāti Apakura and NITOW in relation to the proposed plan change and potential activities that may impact on Otawhao Pā.

8. MATTERS OF SIGNIFICANCE

As noted in the previous section, the proposed area sits within the raupatu (confiscation) boundary enabled by the Suppression of Rebellion Act 1863 and New Zealand Settlements Act 1963. However there are other significant matters that should be considered by the developer.

8.1 Te awa o Waikato me te awa o Waipā / The Waikato and Waipā rivers

The area is located within the Waikato and Waipā River catchments. Therefore, it is important to note the significance of each waterbody to mana whenua as they are inextricably linked. To Waikato-Tainui, the following statement encompasses a full expression of the relationship and connection to the Waikato River:

“The Waikato River is our tupuna (ancestor) which has mana (spiritual authority and power) and in turn represents the mana and mauri (life force) of Waikato-Tainui. The Waikato River is a single indivisible being that flows from Te Taheke Hukahuka to Te Puuaha o Waikato (the mouth) and includes its waters, banks and beds (and all minerals under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation, flood plains, wetlands, islands, springs, water column, airspace and substratum as well as its metaphysical being...”

With regards to the Waipā River, Te Nehenehenui / Maniapoto provide the following statement to express the significance of the Waipā River:

“Te Awa o Waipa is a taonga to Maniapoto; the relationship between Maniapoto and the Waipa River is historic, intellectual, physical, and spiritual; to Maniapoto, their relationship with the Waipa River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture.”

8.2 Ngā Wai Tūpuna / Generational Relationship with Water

The relationship between mana whenua and water is founded within tribal traditions, knowledge handed through generations, and a world view that understands waimāori (freshwater) as flowing in a perpetual spiritual and physical cycle between Ranginui (the sky father) and Papatūānuku (the Earth mother). The health and wellbeing of water resources, in all forms, is inextricably linked to the health of the iwi, hapū and marae.

Water quality is a significant measure of the *mauri* (life essence) of the Waikato and Waipā Rivers, or its health and wellbeing.

The Waikato-Tainui Environmental Plan, which is applicable to the private plan change, describes the relationship between water quality and its use by Waikato-Tainui:

To Waikato-Tainui, water has the ability to both create and sustain life. It is of no coincidence that Waikato-Tainui marae were established alongside or near water bodies. Water is required to sustain the functions of the marae, hapuu, and the people. The significance of water to Waikato-Tainui is immeasurable and the respect for it is demonstrated by the manner and purposes for which it is used

and handled. This includes certain waters being used only for bathing, blessings, healing, spiritual cleansing, gathering kai, and waters that are totally excluded from use for cultural reasons.

There are multiple specific names for water in different states and having different characteristics, for example: Waiora is life giving or medicinal water. Waitapu – water made sacred. Waiunu – water for drinking. Waipupuke – choppy water. Waihuka – frothy water. Waiwhakaika – special water used for tapu ceremonies. Waiariki – curative waters such as hot springs. Waiparu – cloudy or muddy water. Waikutikuti – water used for cutting hair. Waipiro – smelly water. Waikino – polluted water. Waikawa – slow moving, problematic water. Waimate – stagnant, dead or dangerous waters. Manowai – deep water with strong undercurrents. Waimakariri – cold waters. Waingohengohe – soft waters. And so the list goes on. Each of the mana whenua groups can provide details for different waterbodies and their characteristics which explains the way their ancestors understood environmental relationships. The Waikato-Tainui Environmental Plan provides a summary of water states and anticipated uses which could be considered as part of the stormwater monitoring programme:

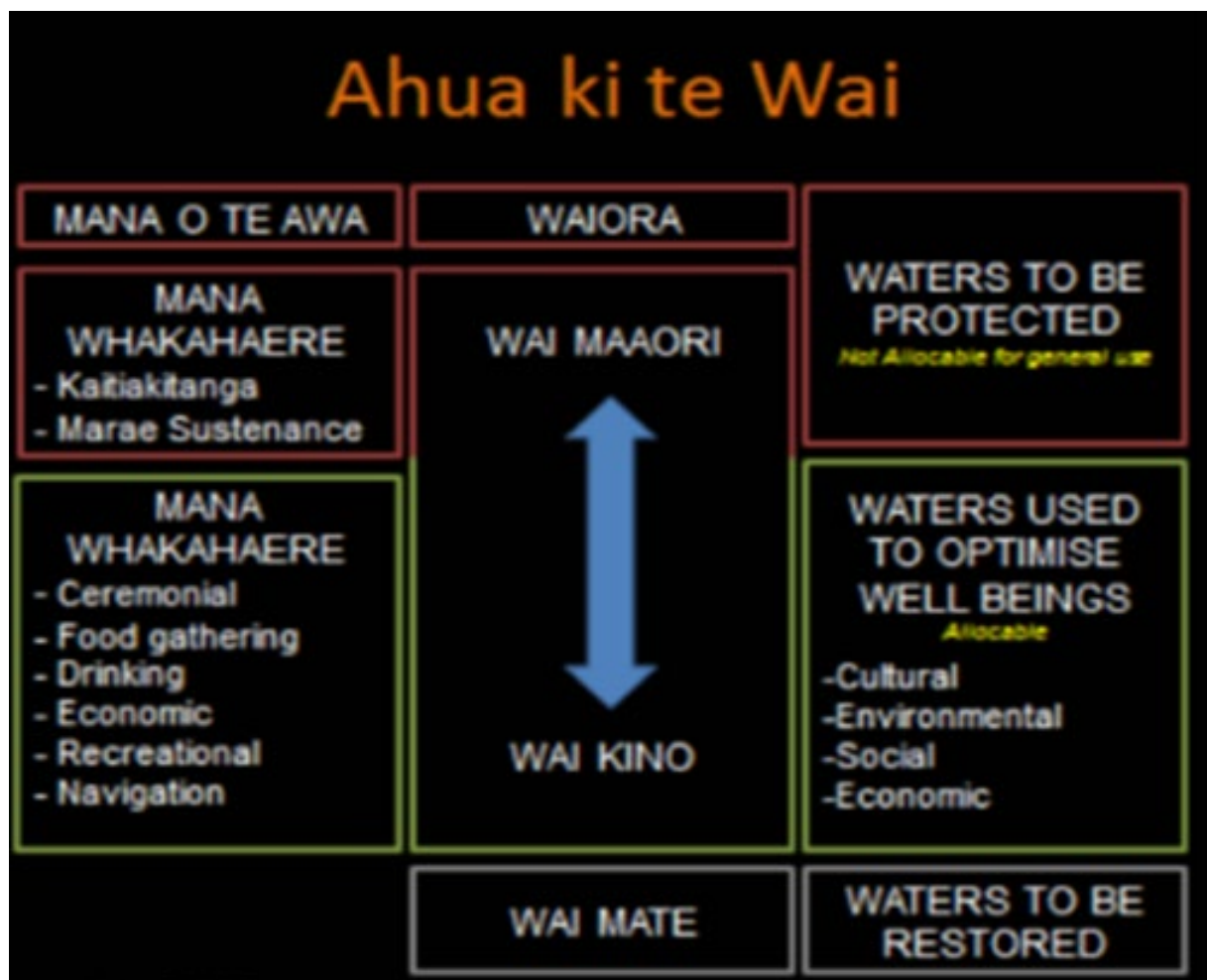
Wai Ora – Life giving and sustaining. These waters are generally regarded as pristine, sanctified water, primarily used for “higher” purposes such as ceremonial use, blessings, cleansing of chiefs etc. These waters are generally spring waters (puna), or in areas specifically designated for higher purposes. These waters must be protected.

Wai Maaori – Useable for general purposes. These are waters that can be used for general purposes such as drinking, recreation, sustenance, economic use and provision for food gathering. Waters used to sustain the marae functions should be protected for marae use. Waters used for general purpose should be managed in a way that ensures the future of the tribe can be sustained.

Wai Kino – Waters of limited use. These waters can still be used generally, but may have limited ability to sustain life or to be safely used due to poor water quality, accessibility, or other limiting factors. These waters require greater management to ensure safe and optimal use.

Wai Mate – Waters that have exceeded the ability to properly sustain life. These waters are regarded as not fit for human or certain productive use. To some they are identified as ‘dead’ waters, but to Waikato-Tainui, no water is regarded as being ‘dead’, as all things, including water, have mauri. Therefore, these waters must be better managed and restored to a higher quality.

To Waikato-Tainui, the quality of water determines the type of relationship that Waikato-Tainui has with it. Following on from the states of water, the diagram below attempts to demonstrate how Waikato-Tainui consider water, the state of water, its relevance of use, and general use management and protection of each state.



The classification of water into the above 'states' of water should be determined by whānau, marae, hapū, and iwi who are kaitiaki and/or exercise mana whenua over part or all of a water body and be incorporated in the future of water management.

The diagram outlines the following:

- a. Waters regarded as Waiora must be protected from impacts, and general use. It should not be allocated for general use.
- b. Waters that are required for marae sustenance and/or to support spiritual guardians in fulfilling their roles as kaitiaki, must not be allocated, but must be protected.
- c. Those waters that do not fall into the waiora, or upper echelon of wai maaori, can be allocated for general human purposes, but must be used in a manner that demonstrates greatest efficiency, and optimises cultural, spiritual, environmental, social, and economic well beings.
- d. Waters that are regarded as being 'lifeless' or 'dead' must be protected from further degradation, and subject to a greater restorative plan.

Waters impacted by activities associated with the private plan change should, as a minimum, achieve a state of Wai Māori, as expressed by mana whenua.

8.3 Hīkina te wai / Conveyance of water

The movement and transfer of stormwater is a matter to be raised with mana whenua. Mana whenua should be asked to consider whether stormwater infrastructure should be exposed (daylighted) in some areas, conveyed through pipes or decommissioned in some areas. The reasons for daylighting areas could be to allow water to fall naturally to known *puna* (springs) and reduce impermeable areas. Consideration should also be given to new stormwater conveyance systems being conducive to the natural environment and gradients.

Mana whenua to consider whether stormwater infrastructure should be exposed (daylighted) in some areas, conveyed through pipes or decommissioned in some areas.

8.4 He Paheke Kōrere / Discharge Structures

To mana whenua, any structure that pierces the bed or banks of the Waikato and Waipā Rivers is akin to piercing the veins of an ancestor. Where discharge structures can be removed, or limited in a project, then it will be regarded as an improvement to the activity and beneficial for the rivers. It is the preference of mana whenua that there would be no structures in the bed or bank of the river or its tributaries. However, if structures are required and present, the structure should have a minimal impact on the relationship of mana whenua with the rivers and streams and the ability of them to function naturally. This includes minimal impact on the river and stream channel, deposition and erosion on/of the bed and banks, habitat and movement of taonga species, access to significant sites, customary fisheries and food gathering.

For any proposed consents for required structures, mana whenua should determine the most appropriate place for discharge locations and structures, including their design.

8.5 Waahi Tapu / Sites of Significance to Mana Whenua

The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 recognises the Waikato River as a tuupuna (ancestor) which has mana (spiritual authority and power) and in turn represents the mana and mauri (life force) of Waikato-Tainui. The Ngā Wai o Maniapoto (Waipā River) Act 2012 acknowledges Te Awa o Waipa as a taonga to Maniapoto and that the relationship between Maniapoto and the Waipā River is historic, intellectual, physical, and spiritual. To Maniapoto, their relationship with the Waipā River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture.

The relationship of Waikato-Tainui with the Waikato River, and Maniapoto to the Waipā River, gives rise to responsibilities to protect te mana o te awa and ngā taonga tuku iho o Waiwaia and to exercise mana whakahaere in accordance with long-established tikanga to ensure the restoration and protection of the wellbeing of the Rivers. Both Rivers and all taonga between them are significant to mana whenua.

While many sites of archaeological significance, and sites and areas of significance to mana whenua, have been destroyed, damaged or highly modified by urban and rural development and are not easily recognisable for their original purpose and form, their historical and cultural importance has not diminished. Sites and areas of significance to mana whenua and archaeological sites form an important part of the cultural history of the

Waipā district and should be appropriately recognised and protected for the benefit of current and future generations.

In many cases, a site or area has both archaeological significance and historic or cultural significance to mana whenua. And the extent of the site and area of significance to mana whenua encompasses and is more extensive, than the archaeological site.

The mana whenua assessment should determine any impacts of proposed activities on known sites of significance.

An archaeological report must be considered for this area given its proximity to streams and Otawhao Pā.

8.7 Mātauranga Māori

The status of mātauranga Māori is recognised in legislation, Te Tiriti ō Waitangi and specifically recognised in objective '(m)' of te Ture Whaimana. Mātauranga Māori in its simplest form can be defined as “the unique Māori way of viewing the world, encompassing both traditional knowledge and culture”. As with western knowledge, mātauranga Māori has both qualitative and quantitative aspects that seek to protect the relationships from which the culture and identity of mana whenua are derived. A key issue for WDC is to recognise the multidimensional nature of mātauranga Māori.

9. TE TURE WHAIMANA O TE AWA O WAIKATO

The following context is relevant to this section.

9.1 Waikato River Arrangements

There is substantial context behind the Waikato River arrangements as these arrangements arise out of significant and lengthy negotiations between the Crown and five Iwi of the Waikato River.

Those negotiations resulted in Deeds and ultimately three Acts of Parliament:

- a. the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010;
- b. the Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and
- c. the Ngā Wai o Maniapoto (Waipā River) Act 2012.

This background context (including in relation to the Treaty settlements and agreements which gave rise to these arrangements over the Waikato River) is both relevant and significant and brings into play the principles of the Treaty of Waitangi as recognised through section 8 of the Resource Management Act 1991 (RMA), and other provisions such as section 6(e) and 7(a) of the RMA.

There is a unique set of specific statutory provisions relating to Te Ture Whaimana o te Awa o Waikato - Vision and Strategy, which make it one of the most powerful planning documents in New Zealand.

The Ngā Wai o Maniapoto (Waipā River) legislation was enacted in 2012 to include the upper catchment of the Waipā River through to its junction with the Pūniu River. Te Ture Whaimana applies to the whole of the Waikato and Waipā River catchments.

9.2 Te Ture Whaimana o te Awa o Waikato

Section 5 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 sets out the ‘guiding principles for interpretation’ in relation to Te Ture Whaimana:

5 Guiding principles of interpretation

(1) 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.

(2) This Act must be interpreted in a manner that best furthers—

- (a) the overarching purpose of the settlement; and*
- (b) subsection (1); and*
- (c) the agreements expressed in the 2009 deed and the Kiingitanga Accord.*

The following summary is provided to ensure that the impact of Te Ture Whaimana is understood:

1. Te Ture Whaimana is a central element of the unique legislation enacted in relation to the Waikato River, its catchment, and all it embraces including the Waipā River;
2. Te Ture Whaimana is intended by Parliament to be the 'primary direction setting document' for the Waikato River;¹
3. the legislation reflects a long history and recognises the mana of the rivers themselves (Te Mana o Te Awa) and the significance of the relationship between the Iwi and the rivers (Mana Whakahaere);²
4. Te Ture Whaimana is unique under the RMA in that it has been incorporated directly into the Waikato Regional Policy Statement (**RPS**), and the rest of the RPS must be consistent with Te Ture Whaimana;³
5. Te Ture Whaimana prevails over any inconsistent provision in an NPS or the NZCPS, and amendments cannot be made to RMA planning documents to give effect to an NPS/NZCPS, if that would make the document inconsistent with Te Ture Whaimana;⁴ and
6. a regional plan must 'give effect to' Te Ture Whaimana.

¹ Section 5(1) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

² See the preamble of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

³ Section 11 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

⁴ Section 12(1) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

The above points reinforce the pre-eminent weight to be afforded to Te Ture Whaimana when decisions are being made under the RMA. There is no other example nationally of an external planning document that is to be given greater weight and effect through RMA planning processes.

Te Ture Whaimana contains a set of 13 objectives and strategies to achieve its vision. The objectives of Te Ture Whaimana focus on the most significant matters of importance to River Iwi and the community. Te Ture Whaimana applies to the Waikato River and **activities** within its catchment affecting the Waikato River. [emphasis added]. The objectives are provided in the following section.

Any development should give effect to the relative objectives of Te Ture Whaimana.

9.3 Te Ture Whaimana Objectives:

- (a) The restoration and protection of the health and wellbeing of the Waikato River
- (b) The restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships
- (c) The restoration and protection of the relationship of Waikato River iwi according to their tikanga and kawa, with the Waikato River, including their economic, social, cultural, and spiritual relationships
- (d) The restoration and protection of the relationship of the Waikato region's communities with the Waikato River including their economic, social, cultural and spiritual relationships.
- (e) The integrated, holistic and coordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River.
- (f) The adoption of a precautionary approach towards decision that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River.
- (g) The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within its catchments on the health and wellbeing of the Waikato River
- (h) The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.
- (i) The protection and enhancement of significant sites, fisheries, flora and fauna.
- (j) The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing is subject to the restoration and protection of the health and wellbeing of the Waikato River.
- (k) The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.

- (l) The promotion of improved access to the Waikato River to better enable sporting, recreational, and cultural opportunities.
- (m) The application to the above of both mātauranga Māori and latest scientific methods.

10. RESTORATION AND PROTECTION: BETTERMENT

The private plan change and potential consents required for this development will be required to satisfy the objectives and rules of the Waikato Regional Plan and associated District Plans. Achieving those objectives will provide for a balance of the activities against its impact on the environment.

It is the view of Te Huia Ltd that the conditions associated with this plan change and proposed development satisfy the obligations of mana whenua as kaitiaki to the whenua (land), wai (water), arorangi (air), taonga kararehe (treasured fauna), taonga tupu (valued flora) and Atua associated with its realms and domains.

Mana whenua will likely seek a koha (gift) beyond the conditions of the planning documents, and common conditions to achieve council obligations to the RMA and avoid, remedy or mitigate adverse effects. Mana whenua seek a legacy of 'betterment' and 'gifting' to the taonga that are impacted by proposed developments and their activities. Examples include:

1. Restoration projects that are founded on mātauranga Māori and achieve Te Ture Whaimana objectives;
2. Restoration of mahinga kai areas;
3. Expression of historic and cultural knowledge at significant sites;
4. Education opportunities to encourage youth into the kaitiaki roles;

11. SUMMARY

This report provides recommendations to be considered by Waipa District Council and the Developer, should the private plan change be granted. The report provides a set of considerations including associated Treaty settlements, obligations, Te Ture Whaimana o te Awa o Waikato objectives and known Waahi Tapu, to contribute to the decision. This Report is a pre-assessment of cultural advice for the Developer and Waipa District Council related to the private plan change.

If you have questions with this Report, please contact Julian Williams.

Mauri ora



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