

**BEFORE THE**

Waikato Regional Council Hearing  
Commissioners

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of Waikato Regional Proposed Plan Change 1 –  
Waikato and Waipā River Catchments

---

**REBUTTAL EVIDENCE OF JANEEN ANNE KYDD-SMITH  
ON BEHALF OF THE WAIKATO AND WAIPA RIVER IWI  
(Submitter No. 74035)**

**27 FEBRUARY 2019**

---

---

**KAHUI**  
LEGAL

PO Box 1654

Telephone: (04) 495 9999

Facsimile: (04) 495 9990

Counsel: J P Ferguson / N Tahana

Email: [Jamie@kahuilegal.co.nz](mailto:Jamie@kahuilegal.co.nz) [Ngaroma@kahuilegal.co.nz](mailto:Ngaroma@kahuilegal.co.nz)

**WELLINGTON**

## **INTRODUCTION**

1. My name is Janeen Anne Kydd-Smith. I am a Director and Principal Planner of Sage Planning HB Limited, in Napier.
2. I have been engaged by the Waikato Waipā River Iwi (**River Iwi**) to prepare and present rebuttal planning evidence in relation to their submissions and further submissions on Proposed Waikato Regional Plan Change 1 – Waikato and Waipā River Catchment (**PC1**), including Variation 1 to PC1.
3. I confirm that I have read the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2014. My evidence has been prepared in compliance with that Code in the same way as I would if giving evidence in the Environment Court. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **SCOPE OF EVIDENCE**

4. My rebuttal evidence is provided in response to the Evidence in Chief filed by the following planning witnesses on 15 February 2019:
  - (a) Ms Corina Jordan for Beef + Lamb New Zealand Limited; and
  - (b) Mr Murray Kivell for the South Waikato District Council and the Matamata-Piako District Council.

## **EVIDENCE**

### **CORINA JORDAN**

#### **Recognising and Providing for Values: Objective 1**

5. At paragraphs 80 and 99 of Ms Jordan's evidence, she considers that PC1's objectives fall short of representing the requirement in the Vision and Strategy to set outcomes that provide for the health and wellbeing of the Waikato River and its communities, including their economic, social, cultural and spiritual relationships with the River. She considers that the Vision and Strategy's objectives are not singularly or

specifically related to the “restoration and protection of water quality”, as set out in Objective 1 of PC1, but encompass a much more holistic and integrated vision which relates to the restoration and protection of the ‘health’ of the River and the wellbeing, including economic wellbeing, of communities.

6. At paragraph 101, Ms Jordan states that “nowhere do the objectives recognise the need to continue to provide for importance of primary production and the economic wellbeing of people and communities at the same time as pursuing the restoration and protection of water quality”.
7. As such, Ms Jordan considers that PC1 does not give effect to the NPS-FM and it is inconsistent with the purpose of the Resource Management Act (RMA) in relation to reflecting both limbs of sustainability under Part 2<sup>1</sup>.
8. The Vision and Strategy was included in its entirety in Schedule 2 to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. Section 12 of the Settlement Act states that the Vision and Strategy prevails over any inconsistent provisions in a national policy statement (including the NPS-FM), New Zealand Coastal Policy Statement, and national planning standard. It specifies that the Council must not review or amend (under section 79 of the RMA) the Vision and Strategy inserted into the Waikato Regional Policy Statement. A rule in a regional or district plan for the purpose of giving effect to the Vision and Strategy prevails over a national environmental standard and a water conservation order if it is more stringent than the standard or order.
9. The Vision and Strategy is included in its entirety in the Waikato Regional Policy Statement, and regional and district plans must give effect to it.

---

<sup>1</sup> Refer to paragraph 80 of Corina Jordan’s Evidence in Chief.

10. The Vision and Strategy has thirteen objectives that will be pursued in order to realise the 'Vision'<sup>2</sup> of the Vision and Strategy. The objectives refer to different elements of 'restoring and protecting', as follows:

- the restoration and protection of the health and wellbeing of the Waikato River (Objective A);
- the restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships (Objective B);
- the restoration and protection of the relationship of the Waikato River Iwi according to their tikanga and kawa, with the Waikato River, including their economic, social, cultural and spiritual relationships (Objective C);
- 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 (Objective D);
- protecting and enhancing significant sites, fisheries, flora and fauna (Objective I); and
- 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 (Objective K).

11. I disagree with Ms Jordan's view that Objective 1 of PC1 is related specifically to the restoration and protection of water quality. In my opinion, Objective 1 is much broader as it anticipates that, by meeting the 80-year water quality attribute states in Table 3.11-1 by 2096 at the latest, it will result in "*the achievement of the restoration and protection of the Waikato and Waipā Rivers*" generally.

---

<sup>2</sup> The 'Vision for the Waikato River' is: "*Our Vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come*".

12. In my opinion, Objective 1 of PC1 recognises the broader aspects of ‘restoration and protection’ in the objectives of the Vision and Strategy, as referred to above.
13. I note that the Section 32 Evaluation Report recognises that the PC1 objectives contribute to ‘positive social and community benefits’ and ‘achieving the restoration and protection of native habitats and biodiversity’ through their focus on restoring and protecting water quality, as degraded water quality not only affects what the water can be used for, but also its life-supporting capacity for aquatic plants and other species<sup>3</sup>.
14. Objective J of the Vision and Strategy states:

*“The recognition that the strategic importance of the Waikato River to New Zealand’s social, cultural, environmental and economic wellbeing is **subject to** [my emphasis] the restoration and protection of the health and wellbeing of the Waikato River.”*
15. In my opinion, this means that if the health and wellbeing of the Waikato (and Waipā) Rivers are restored and protected, then the social, economic, cultural and environmental wellbeing will follow.
16. I consider that this approach is supported by Objective 2 of PC1, which states:

*“Waikato and Waipā communities and their economy benefit from the restoration and protection of water quality in the Waikato and Waipa River catchments, which enables the people and communities to continue to provide for their social, economic and cultural wellbeing.*
17. I therefore consider that the PC1 objectives do provide for the social, economic and cultural wellbeing of people and communities at the same time as pursuing the restoration and protection of water quality, which is consistent with the Vision and Strategy.
18. Ms Jordan states (at paragraph 109) that, while she agrees with the Officers that giving effect to the NPS-FM and the Vision and Strategy is mandatory, she considers that PC1 does not recognise or provide

---

<sup>3</sup> Section D.1.1, page 94 of the Section 32 Evaluation Report for PC1.

for the values of freshwater, including but not limited to, the importance of primary production, nor provide for the economic, social or cultural wellbeing of communities.

19. The NPS-FM and RPS require the identification of FMUs and appropriate limits and targets to be established. Community consultation about the values people hold for the waters of the Waikato and Waipā Rivers was undertaken to inform the values in Section 3.11.1 of PC1 and the setting of freshwater objectives/limits/targets in Table 3.11-1.
20. The Collaborative Stakeholders Group (CSG) considered and agreed on a set of values and uses from a range of different people, community groups and perspectives, including taking feedback from a large stakeholder forum, presentations, field trips, community engagement, feedback from their sectors, feedback from river iwi staff, technical reports on iwi cultural values, River iwi environmental management plans and other relevant documents<sup>4</sup>. This was combined with technical data on the water quality of different stretches of these rivers to define eight FMUs with associated limits for contaminants. River iwi and sector groups were consulted throughout the development of PC1 to ensure a broad range of views were canvassed<sup>5</sup>.
21. The attributes used in PC1 were selected from the NPS-FM and supplemented by additional attributes that were identified by the Technical Leadership Group for setting targets in Table 3.11-1 to achieve the freshwater objectives and the Vision and Strategy.
22. In his evidence in chief, Dr Olivier Ausseil refers to a review he undertook of the process followed for PC1 to define freshwater objectives/limits/targets, with particular regard to whether the provisions of the NPS-FM were implemented. Dr Ausseil concludes that the process followed to define the FMUs and agree on values associated with waterbodies within each FMU was overall consistent

---

<sup>4</sup> Section B.3.1, page 30 of the Section 32 Evaluation Report.

<sup>5</sup> Section D.1.1.2, page 93 of the Section 32 Evaluation Report.

with Policy CA2 of the NPS-FM and similar processes used to promulgate other regional plans<sup>6</sup>.

23. I therefore consider that freshwater values and attributes have been identified for PC1 in accordance with the NPS-FM.
24. However, as outlined in Dr Ausseil's evidence<sup>7</sup>, he considers that there are issues relating to the numerical freshwater objectives/limits/targets in Table 3.11-1 and recommends that expert caucusing be held to address them.
25. Otherwise, for the reasons set out above, I disagree with Ms Jordan's conclusions that PC1 does not give effect to the NPS-FM or that it is inconsistent with the RMA.

## **MURRAY KIVELL**

### **Vision and Strategy – Objective K**

26. At paragraph 67 of Mr Kivell's evidence, he suggests that Objective K of the Vision and Strategy has become the overriding consideration and the single focus of PC1 and the 'other matters' seem to have fallen away.
27. Objective K of the Vision and Strategy states the following:  
  
*"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".*
28. As I have outlined above in relation to Ms Jordan's evidence, I consider that Objective 1 of PC1 appropriately recognises the broader aspects of 'restoration and protection' contained in the objectives of the Vision and Strategy, which includes, among other objectives, the restoration of water quality.
29. The CSG also considered and agreed on a set of values and uses from a range of different people, community groups and perspectives, technical reports on iwi cultural values, economic modelling, River iwi environmental management plans and other relevant documents to

---

<sup>6</sup> Paragraphs 36-52.

<sup>7</sup> Paragraph 51.

identify the values included in Section 3.11.1 of PC1, and which was used to inform the setting of freshwater objectives/limits/targets provided in Table 3.11-1.

30. I therefore disagree with Mr Kivell that 'other matters' seem to have fallen away.



Janeen Kydd-Smith  
27 February 2019