

Waikato Regional Council - Proposed Plan Change 1 (and Variation 1)
- Waikato and Waipaa River Catchments

Evidence for Hearings, Block One

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Waikato River Authority
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Evidence presented by:
Bob Penter, Chief Executive

E ngaa rangatira, teenaa koutou, teenaa koutou, teenaa koutou I runga te aahua o te waa.

1. My name is Bob Penter. I hold Bachelor of Science, Bachelor of Arts (Hons) and Master of Science degrees from the University of Canterbury. I have 23 years' experience in the environmental engineering, science and planning fields having held peer-assessed memberships with the New Zealand Planning Institute, Engineering New Zealand, and Environment Institute of Australia and New Zealand (Certified Environmental Practitioner). I am an accredited hearing commissioner and have sat on a number of hearing panels including freshwater related plan changes. Since mid-2010 I have been the inaugural Chief Executive of the Waikato River Authority (including the Waikato River Clean-Up Trust), and prior to this I was the Crown-appointed Senior Advisor to the Waikato River Guardians Establishment Committee that was tasked with preparing the Vision & Strategy.

SUMMARY STATEMENT

2. The Waikato River Authority (the WRA) supports the intent of the Proposed Plan Change 1 and Variation 1 (PC1), in particular as it relates to restoring and protecting the health and well-being of the Waikato and Waipaa rivers and all it embraces for future generations.
3. The WRA opposes the withdrawal of PC1, as recommended by many submissions noted in section 108 of the Section 42A report.
4. It is no longer sufficient for resource users to demonstrate that adverse effects are avoided, remedied, or mitigated. Instead, resource users should demonstrate that any resource use within the Waikato and Waipaa River catchments will also result in some positive benefit contributing to the restoration of the Waikato River, proportionate to the activity in question.
5. The WRA acknowledges that the required changes to achieve the Vision & Strategy will take many years, and that PC1, provides a positive step to restoring and protecting the health and well-being of the Waikato River, and all it embraces, for future generations. PC1 demonstrates betterment for the Waikato and Waipaa Rivers.

The Waikato River Authority

6. The Waikato River Authority is an independent statutory body formed in 2010. The three Acts of Parliament that relate to the management of the Waikato River and its catchment (Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, Ngā Wai o Maniapoto (Waipā River) Act 2012) all provide legislative recognition of the Vision and Strategy for the Waikato River.
7. The Authority has ten Board Members who are appointed by the River iwi (5) and Ministers of the Crown (5), in particular the Minister for the Environment. The Authority is the sole Trustee of the Waikato River Clean-up Trust whose role is to fund projects which meet the purpose of the Authority.
8. The purpose of the Waikato River Authority is to:
 - I. set the primary direction through the Vision and Strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations.
 - II. promote an integrated, holistic, and co-ordinated approach to the implementation of the Vision and Strategy and the management of the Waikato River.
 - III. fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-up Trust.

Te Ture Whaimana o te Awa o Waikato (Vision & Strategy)

9. In relation to PC1, the WRA sets the primary direction through the Vision and Strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River, and all it embraces, for generations to come.
10. The Vision & Strategy is the primary direction-setting document for the Waikato River and has the status of a National Policy Statement, prevailing over any inconsistent provision in any other National Policy Statement and the New Zealand Coastal Policy Statement, where there is a conflict.

11. Put simply, the Vision & Strategy ensures the betterment of the Waikato and Waipaa Rivers through its influence in all RMA planning documents, including the Waikato Regional Policy Statement, and 19 other pieces of legislation which impact decisions related to the Waikato and Waipaa Rivers.

12. The Vision & Strategy contains a set of objectives and strategies for the restoration and protection of the health and wellbeing of the Waikato River, and all it embraces, for generations to come. These are as follows:
 - 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 decisions 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 available scientific methods.
13. The objectives within the Vision & Strategy encompass all people of the River and their relationships with it – through their communities, industries, recreation, social and cultural pursuits. It will take commitment and time to restore and protect the health and wellbeing of the Waikato River. Only by us all working together collaboratively and cooperatively in a coordinated approach will the Vision be realised.

‘Restore and Protect’ versus ‘Avoid, Remedy and Mitigate’.

14. The Vision & Strategy aspires to ‘restore and protect’, rather than ‘avoid, remedy and mitigate’ as guided by the Resource Management Act 1991. It is the view of the WRA that there are fundamental differences in these meanings, and that the application of ‘restore and protect’ initiates a restoration approach that is a level above current practices to achieve sustainability under the RMA.
15. The Environment Court stated in *Puke Coal Ltd v Waikato Regional Council*, under the heading “Protect and restore surface water is paramount”, that:

“[86] We are unanimous in our view that the adoption of the Vision and Strategy Statement of the Settlement Act within the Regional and District Plans, has led to a stepwise change in the approach to consents affecting the catchment of the Waikato River.

[87] We consider that looking at the Waikato River Settlement Act and the Regional and District Plans as a whole, the only reasonable conclusion that can be reached is that there is an intention to improve the catchment of the river itself within a reasonable period of time (several decades) to a condition where it is safe for swimming and food gathering over its entire length.”

And:

“[92] Implicit in the Supreme Court decision was the matter of workable practicality thus any protection or restoration must be proportionate to the impact of the application on the catchment. However, it is clear that it intends to go further than avoiding effect. We have concluded protection and restoration includes preservation from future and restoration from past damage. Restoration can only involve recreation of a past state. Thus, some element of betterment is intended.”

16. Based on the intent of the establishing settlements, it is no longer sufficient for resource users to demonstrate that adverse effects are avoided, remedied, or mitigated. Instead, resource users should demonstrate that any resource use within the Waikato and Waipaa River catchments will also result in some positive benefit contributing to the restoration of the Waikato River, proportionate to the activity in question.

17. The Authority acknowledges that the required changes to achieve the Vision & Strategy will take many years, and that PC1 and the Variation, provides a positive step to restoring and protecting the health and well-being of the Waikato River, and all it embraces, for future generations. PC1 demonstrates betterment for the Waikato and Waipaa Rivers.

The Role of the Waikato River Authority in the PC1 process

18. The WRA has had an ex-officio seat (with no voting rights) on the iwi/Waikato Regional Council steering group Te Roopuu Hautuu throughout the Healthy Rivers Plan Change process including discussions related to Variation 1. The purpose of this group was to maintain an overview and provide integrated direction to the project team responsible for reviewing the Waikato Regional Plan as it relates to the effects of discharges on the health and wellbeing of the Waikato and Waipaa Rivers.

19. The WRA was involved in the appointment of commissioners to the hearing committee for the Healthy Rivers Plan Change.

Section 42 Officers Report

20. The WRA acknowledge the Section 42A report (the Report) in relation to PC1, including Variation 1, as it represents the Vision & Strategy in section 3.3.2 of the report. The WRA also supports and agrees with the reference in section B1, para 101,

that the exploration and agreement of the set of outcomes for PC1 fundamentally relate to the achievement of the Vision & Strategy.

21. The WRA supports PC1 (and Variation 1) as a whole, and do not support its withdrawal, as recommended by many submissions not in section 108 of the Section 42A report.
22. Para 125 of the Report is correct that the Vision & Strategy must be given effect to, and continues to support the 10-year and 80-year targets, in particular as they relate to objectives G, H and K of the Vision & Strategy. The 10-year targets, although not strong enough in our view, provide a reasonable stepping stone to achieving the Vision & Strategy.
23. While there are concerns that there are unreasonable costs to achieving the targets of PC1, the WRA notes that through the Waikato River Clean Up Trust, we will continue to fund projects that look to achieve outcomes beyond that proposed in PC1. There is funding available from many entities, including the WRA, to support better outcomes for the Waikato and Waipaa River catchments.
24. The WRA support the Officers recommendation in relation to section B2.4.2 "Vision and Strategy for the Waikato River".
25. The WRA further supports this evidence by presenting key points from our further submission in that the WRA continues to:
 - I. Support strengthening of provisions relating to lakes and wetlands for the reasons set out in the WRA submission;
 - II. Support strengthening of monitoring and review provisions to ensure they consider progress against implementation and giving effect to the Vision & Strategy;
 - III. Maintain support for the inclusion of existing water quality states in PC1 and the Variation;
 - IV. Support strengthening of provisions to include a clear directive that current contaminant levels shall not increase;
 - V. Ensure that existing and new discharges are regulated to ensure there is no further degradation of water quality;

- VI. Recognise the effect of historic barriers to development of taangata whenua ancestral lands and retention of this policy for land that has been returned or may be returned in the future; and
- VII. Oppose any extension of timeframes to achieve targets identified in PC1.

Decisions sought by the Waikato River Authority

26. That the proposed Waikato Regional Plan Change 1 – Waikato and Waipaa River Catchments is approved.

Naaku noa, naa



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Chief Executive

Waikato River Authority

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