RESPONSE TO MINISTRY OF ENVIRONMENT ON PLANNING FOR SUCCESSFUL CITIES: NATIONAL POLICY STATEMENT FOR URBAN DEVELOPMENT

This response is filed for Waikato-Tainui by:

Te Whakakitenga o Waikato Incorporated
PO Box 648
Hamilton 3240
INTRODUCTION

1. This response is made on behalf of Te Whakakitenga o Waikato Incorporated (formerly known as Waikato-Tainui Te Kauhanganui Incorporated). Te Whakakitenga o Waikato Incorporated is the governance entity for the iwi of Waikato-Tainui, which has over 76,500 members affiliating to 68 marae and 33 hapuu.

2. Te Whakakitenga o Waikato Incorporated is the trustee of both the Waikato Raupatu Lands Trust and the Waikato Raupatu River Trust and is the mandated iwi organisation for Waikato-Tainui for the purpose of the Māori Fisheries Act 2004.

3. Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) is concerned about the proposed reforms and wants to ensure that the Ministry for the Environment Action on Planning for Successful Cities – specifically the National Policy Statement for Urban Development (NPS-UD) does not adversely affect the rights, interests and opportunities of Waikato-Tainui.

OVERVIEW OF WAIKATO-TAINUI POSITION

4. Waikato-Tainui has a range of rights and interests including, but not limited to:

   (a) rights and interests arising under the 1995 Waikato Raupatu Lands Settlement (and the Waikato Raupatu Settlement Act 1995) and the 2008-2009 Waikato River Settlement (and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010);

   (b) rights and interests according to tikanga and customary law;

   (c) rights and interests arising from the common law (including the common law relating to aboriginal title and customary law); and

   (d) rights and interests under the Treaty of Waitangi and its principles.

5. Waikato-Tainui seeks to ensure that these rights and interests are recognised and protected with any policy development.

6. As part of the River Settlement signing in 2008, we also signed the Kiingitanga Accord. A cornerstone of the settlement is that both Waikato-Tainui and the Crown have committed to enter into a new era of co-management.

7. The intention of the settlement was that the Crown would respect and work with Waikato-Tainui in good faith, as a Treaty partner. As set out in the Kiingitanga Accord, this requires the Crown to engage with Waikato-Tainui at an early stage when developing any legislation or policies, or making any decisions, affecting the Waikato River.

8. The development of the proposals relating to the NPS-UD is certainly inconsistent with this obligation for the Crown to leave Waikato-Tainui to merely react to and
“submit” on relevant Bills and policies that have already been developed by officials, as had been the norm prior to our settlement being reached.

9. From our perspective, the process that has been followed for developing the Government’s current proposals has not been conducted in good faith, in accordance with the principles of co-management or consistently with the Crown’s obligations under our settlement.

10. Waikato-Tainui seeks to ensure that these rights and interests are recognised and protected following the Government’s adoption and implementation of the Planning for Successful Cities and the NPS-UD.

PROPOSED REFORM

11. Waikato-Tainui supports and promotes a co-ordinated, co-operative and collaborative approach to natural resource and environmental management, restoration, responsibilities and care within the Waikato Tainui rohe.

12. Mana whakahaere embodies the authority that Waikato Tainui have established in respect of our environment and we view the holistic integrated management of all elements of the environment such as flora and fauna, land, air and water as of utmost importance.

13. Waikato-Tainui are responsible for protecting and nurturing the mauri of all living things in accordance with tikanga (values, ethics and norms of conduct). Therefore, when exercising mana whakahaere, we recognise the intricate balance and integral relationship between all-natural resources in the Waikato Tainui rohe. Accordingly, we strive to ensure these tikanga values (including responsibilities) are inherent in all our actions.

14. Waikato-Tainui has developed a range of formal resource management relationships with different central and local government agencies. For example, our multiple joint management arrangements with local authorities within the Waikato River catchment area.

15. Waikato-Tainui welcomes reform that is intended to align and integrate the resource management system to enhance iwi and hapuu participation. We also welcome reform that provides robust and durable planning and environmental outcomes.

16. Equally, Waikato-Tainui opposes any legislative and policy development that may undermine participation in resource management processes that we have achieved to date, either as a result of Treaty settlement legislation or as a function of our relationships.

17. In respect of the Waikato River, Te Ture Whaimana/the Vision and Strategy for the Waikato River is of paramount importance and must continue to prevail over other planning instruments. In order to ensure that the Vision and Strategy is properly given effect, Waikato Tainui participation in planning processes relating to the Vision and Strategy must not be diluted.
18. However, having regard to the information that is currently available and noting the absence of any direct engagement with Waikato-Tainui regarding the Planning for Successful Cities/ NPS-UD proposals, Waikato-Tainui wishes to ensure that:

(a) Waikato-Tainui be afforded the opportunity to actively engage with the Crown in respect of the further policy development and implementation of the National Policy Statement for Urban Development and the potential affects and opportunities that it may have for both Waikato-Tainui and the Waikato region;

(b) the ability for Waikato-Tainui regulate and develop environmental strategies and practices that uphold the rights and interests of Waikato-Tainui is maintained and not compromised or otherwise inhibited by the terms of the National Policy Statement for Urban Development;

(c) the obligations agreed to in the Waikato-Tainui Settlement in relation to the Waikato River protect the relationship that the Crown has with Waikato-Tainui and the rights guaranteed to Waikato-Tainui through the Settlements and Treaty of Waitangi and its principles;

(d) the proposals will not adversely impact on the overarching purpose of the Waikato River Settlement, to restore and protect the health and wellbeing of the Waikato River for future generations and for the purpose of protecting and advancing the rights and interests of Waikato-Tainui; and

(e) Te Ture Whaimana / the Vision and Strategy for the Waikato River is of paramount importance and must continue to prevail over other planning instruments.

PRIORITY AREAS

Te Ture Whaimana prevails over any National Policy Statement for Urban Development

19. Te Ture Whaimana is intended to be the primary direction-setting document for the Waikato River and activities within its catchment affecting the River.

20. Te Ture Whaimana has certain status and prevails over any inconsistencies in other policies, plans, or processes affecting the Waikato River. Relevant policies, plans, and processes cannot be amended so that they are inconsistent with Te Ture Whaimana and must be reviewed and amended, if required, to address any inconsistencies.

21. Resource management, use, and activities within the Waikato River catchment in the Waikato-Tainui rohe is to be consistent with Te Ture Whaimana.

22. Waikato-Tainui therefore seeks to ensure that the proposed National Policy Statement for Urban Development is consistent with:
(a) Te Ture Whaimana;
(b) Waikato-Tainui rights and interests within the Waikato boundaries.

23. Waikato-Tainui expects to actively engage with the Crown on the implementation of the National Policy Statement for Urban Development and the potential effects and opportunities that it may have for both Waikato Tainui, our marae and hapuu, and the Waikato region.

Crown Processes: Policy co-design with Waikato-Tainui

24. Waikato-Tainui are disappointed that the Government is choosing to progress the NPS-UD reforms without any proper or meaningful engagement with Waikato-Tainui and without understanding the implications for our Waikato River settlement. It is important that both Waikato-Tainui and the Crown have a comprehensive understanding of what these implications might be, particularly with respect to:
(a) Waikato-Tainui’s ability to exercise its rights and obligations regarding the Waikato River, as provided for in that settlement; and
(b) The Crown’s corresponding obligations under that settlement.

25. In 2008, Waikato-Tainui and the Crown signed both the Kiingitanga Accord and our Deed of Settlement for the Waikato River, culminating in the passing of our Waikato River settlement legislation in 2010. A cornerstone of the settlement is that both Waikato-Tainui and the Crown have committed to enter into a new era of co-management.

26. Clause 4 of Schedule 1 to the Waikato River Settlement Act sets out relevant principles from the Kiingitanga Accord. Those include the principle of co-management, which is described as follows:

"4 Co-management

(1) …The principle of co-management includes:
(a) The highest level of good faith engagement; and
(b) Consensus decision-making as a general rule;

while having regard to the statutory frameworks and the mana whakahaere of Waikato-Tainui and other Waikato River Iwi.

(2) To be effective co-management must:
(a) Be implemented and achieved at a number of levels and across a range of management agencies, bodies and authorities, including (but without limitation) the following:
(i) The development, amendment and implementation of strategies, policy, legislation and regulations that may potentially impact on the health and wellbeing of the Waikato River; and
(ii) The process for granting, transfer, variation and renewal of consents, licenses, permits and other authorisations for all activities that potentially impact on the health and wellbeing of the Waikato River; and

(b) Include provision for effective Waikato-Tainui input and participation by engagement at an early stage in statutory and management processes, and other actions, that may affect the health and wellbeing of the Waikato River, including the planning and development of new and amended policies or management initiatives or decisions affecting or relating to the Waikato River. This is a positive engagement obligation to provide for early and effective input from Waikato-Tainui, rather than simply an obligation to consult.”

27. It is disappointing that 10 years on, the Crown is failing to meet this fundamental obligation of our settlement.

28. The intention of the settlement was that the Crown would respect and work with Waikato-Tainui in good faith, as a Treaty partner. As set out in the Kiingitanga Accord, this requires the Crown to engage with Waikato-Tainui at an early stage when developing any legislation or policies, or making any decisions, affecting the Waikato River. It is certainly inconsistent with this obligation for the Crown to leave Waikato-Tainui to merely react to and submit on relevant Bills and policies that have already been developed by officials, as had been the norm prior to our settlement being reached.

29. From our perspective, the process that has been followed for developing the Government’s current Freshwater reform programme and specifically, the NPS-UD has not been conducted in good faith, in accordance with the principles of co-management or consistently with the Crown’s obligations under our settlement.

30. The Crown has not sought to engage with Waikato-Tainui on these proposals directly or at an early stage of their development.

31. Waikato-Tainui wishes to actively engage and work co-operatively with the Crown through all stages of the implementation process. To this end, Waikato-Tainui seeks early engagement with the Crown in respect of the implementation of the NPS-UD, including in relation to both the active protection of the Waikato-Tainui’s rights and interests and the opportunities that might exist for Waikato-Tainui and the Waikato regional economy.

**Future Development Strategies (FDS)**

32. Waikato-Tainui generally supports the concept of Future Development Strategies as a means of providing for genuine longer-term planning. Waikato-Tainui is very mindful about the importance of long-term planning and we have our own long-term planning document, Whakatupuranga 2050.

33. Whakatupuranga 2050 is the strategic plan blue print for the cultural, social and economic advancement of Waikato-Tainui. Its vision is to grow a prosperous, healthy, vibrant, innovative and culturally strong iwi. Our mission is for the iwi to grow, prosper and sustain.
34. Waikato-Tainui is also an active partner of Future Proof (Te Tau Tiitoki) which is a joint project set up by key stakeholders and partners to consider how the sub-region should develop into the future.

35. Our sub-region's population is projected to increase by around 30 per cent over the next 30 years. As a result, key partners within our sub-Region have been developing long term planning on how we manage the demand for housing and business land and how we plan for infrastructure such as roads, water treatment plants and schools is vital to the sustainability of the place we live in. Dealing with the impacts of growth is a major challenge facing the regional and sub-regional communities we live.

36. Therefore, Waikato-Tainui expects that any National Policy Statement for Urban Development needs to be flexible enough to provide for the unique regional and sub-regional circumstances and to ensure that the work that has already been progressed in our region is not undermined.

37. Waikato-Tainui also expects that there is input from iwi in relation to any long-term plans and this input must be considered. The growth pressure between Auckland and Hamilton, places many small towns under major risk from development. The majority of our Waikato-Tainui members and our 68 marae are within the Hamilton-Auckland corridor. Waikato Tainui strongly support the provisions included to enhance and recognise iwi and hapuu in the NPS-UD as treaty partners.

38. Therefore, proper inclusion of mana whenua in spatial planning processes is critical and will also assist in streamline development and improve overall development outcomes. As such, Waikato-Tainui wishes to actively engage and work cooperatively with the Crown through all stages of the implementation process.

Amenity Values

39. Waikato-Tainui does not support the inclusion of waahi tapu and cultural sites of significance in the National Policy Statement for Urban Development as an amenity.

40. Waikato-Tainui boundaries have a rich history and as such, there are many cultural sites of significance that need to be protected.

41. By way of background, in 1863-1864 the Crown engaged in a war against Waikato, causing suffering to our people. Crown forces occupied Ngaaruawaahia, the home of the King and the political centre of the Kiingitanga. During the war, many communities who supported the Kiingitanga were driven out of the Waikato.

42. Confiscation of Waikato lands followed in 1865. Approximately 1.2m acres of Waikato lands had been unjustly confiscated by the Crown under the New Zealand Settlements Act 1863. The Waikato confiscation area extended from the Hauraki Gulf to Karapiro in the east, via Pukekura, Oraakau and the Puuniu River to the south, and from Whaingaroa (Raglan) to Te Puuaha o Waikato in the west. These large areas of land are delineated on the annexed map (See Attachment 1).

43. To simply include waahi tapu and cultural sites as an amenity does raise concerns for Waikato-Tainui and indeed our region. The importance of these sites to mana...
whenua and the heritage of our places are critical to our identity, and the resolution of raupatu brought with it the hope for a new generation to determine their own future so that we could advance a better future for our children and mokopuna.

44. Consistent with this, there is also a need to allow for acknowledgement of traditional areas of significance and occupation are in urban areas and therefore Waikato-Tainui expect that there will be provisions included in the NPS-UD where development does not occur at the expense of cultural or environmental degradation.

45. Waikato-Tainui advocate that our waahi tapu and cultural sites should be differentiated and afforded stronger protection mechanisms.

46. Waikato-Tainui would support greater integration across the legislative framework to provide for culture and heritage and support the adoption of principles that provide greater level of protection for sites of significance.

**Intensification**

47. Waikato Tainui have been working collaboratively with our local authorities within our region. In particular, with the Waikato Regional Council on the review of the Regional Plan Change (PC1). As part of that process, Waikato-Tainui (along with other River iwi) have supported an increased control on land use to further prevent further land intensification in the short-term.

48. Waikato-Tainui continue to support this approach and considers it as the most practical way to prevent further cumulative increases of contaminants from land development intensification that are discharged into the Waikato and Waipaa Rivers. This was only an interim measure until a new plan was revised and non-complying activities would be brought into line.

49. Therefore, Waikato-Tainui considers that any National Policy Statement for Urban Development must align and be consistent with the Waikato regional planning processes.

50. Waikato-Tainui also cannot separate ourselves from the paramount importance of the Waikato River. Clause 1(2) Te Ture Whaimana / the Vision and Strategy states “…a future where a Healthy River sustains abundant life and prosperous communities”. This cannot be viewed independently from a healthy river. Te Ture Whaimana identifies abundant life and prosperous communities as the positive consequence of a healthy river.

51. To this end, Waikato-Tainui seeks early engagement with the Crown in respect of the implementation of the NPS-UD, including in relation to both the active protection of the Waikato-Tainui’s rights and interests and the opportunities that might exist for Waikato-Tainui and the Waikato regional economy.

**Greenfields**

52. Waikato-Tainui considers that it is essential to protect and enhance our greenspaces and prevent further loss of key ‘green corridors’ in the Waikato Tainui rohe. This
needs to include the protection of the biodiversity of the region and provide opportunities for all members of Waikato Tainui in urban settings.

53. The development of Greenfields should not be limited to affluent developments that create further gentrification and should also ensure that productive lands are not wasted on low density development options that largely hamstring urban growth. Therefore, there must be a most holistic approach to urban development to ensure the right protections are in place and any development does not adversely affect our natural environment.

54. Therefore, proper inclusion of mana whenua involvement in spatial planning processes is critical and will also assist in streamline development and improve overall development outcomes. As such, Waikato-Tainui wishes to actively engage and work co-operatively with the Crown through all stages of the implementation process.

CONCLUSION

55. In summary, Waikato-Tainui wishes to ensure that:

(a) The National Policy Statement for Urban Development does not adversely affect the rights and interests of Waikato Tainui;

(b) The National Policy Statement for Urban Development will provide the policy framework to improve urban development to meet the needs of Waikato Tainui;

(c) The Crown demonstrates a greater commitment to working alongside Waikato in the development of the National Policy Statement for Urban Development; and

(d) Waikato-Tainui is able to work closely with the Crown to ensure that any benefits from the National Policy Statement for Urban Development are fully realised within the Waikato Region.

DATED 10 October 2019

TE WHAKAKITENGA O WAIKATO INCORPORATED

Address for Service: PO Box 648
                      Hamilton

Telephone: