

# Cultural Advice Report

## Private Plan Change 17

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Independent advice to Fonterra regarding the cultural interests in, and significance of, the area to inform the proposed private plan change application to Hamilton City Council

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Report to Dale Arbury (Fonterra), Laura Jefferies (Fonterra) and Jodie Jenions (Harrison Grierson).

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## 1. EXECUTIVE SUMMARY

This Cultural Advice Report provides advice, of the potential cultural impacts of the proposed Private Plan Change 17 (PC17) for Tangata Whenua. The report seeks to inform the Hamilton City Council (“HCC”) about matters of importance to Tangata Whenua, based on engagements with Ngaati Maahanga, Ngaati Wairere, Ngaati Tamainupoo, Tuurangawaewae Trust Board & Waikato-Tainui (the ‘Tangata Whenua Working Group,’ or ‘TWWG’). It includes a brief background to the application, known cultural values and expectations of Tangata Whenua if the plan change is granted.

The application is for a private plan change to rezone the plan change area to remove the ‘Deferred Industrial Zone’ district plan area that applies to enable the underlying ‘Te Rapa North Industrial’ zoning. If the application is granted, the TWWG recommends that a Tangata Whenua Statement be commissioned once the full set of activities is confirmed. Representatives from the above TWWG have been regularly engaged and updated.

As a result of consistent communication and engagement preceding this CIA, the TWWG collectively consider the need for continued engagement and consultation during all stages of development if the plan change is approved. In summary, the recommendations for Fonterra consideration are:

- 1. Fonterra and Tangata 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. That the developer/s continues to facilitate and resource ongoing engagement with Tangata Whenua.*
- 3. Where possible the development should provide opportunities to share Tangata Whenua stories, provide for expressions of cultural history.*
- 4. Tangata Whenua and the developer should clearly identify opportunities to restore and protect the health and wellbeing of taonga associated with Te Awa o Waikato.*
- 5. Tangata Whenua to work with the developer/s to designate where onsite water conveyance pathways and water service structures (abstraction / discharge) should be.*
- 6. Tangata Whenua to be consulted to determine the area/s should be protected from development and the process for its recognition.*
- 7. Tangata Whenua will apply appropriate protocols to be implemented e.g. discovery protocols.*
- 8. A full assessment of proposed activities against the objectives of Te Ture Whaimana.*

These matters are extended in detail further in this report.

## Dialectal Conventions

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

## Restricted Use of this Report

TWWG reserve the right to restrict the use of this report for the purposes of the Plan Change 17 only.

## 2. BACKGROUND

In July 2023, the Tangata Whenua Working Group (TWWG) were informed that Fonterra had been in discussions with Hamilton City Council (HCC) concerning certain landholdings surrounding the Fonterra Te Rapa Dairy manufacturing site. These discussions centred on the potential rezoning of land from ‘deferred’ industrial zoning to ‘live’ industrial zoning through the Hamilton City Council Plan Change 10 (PC10) process.

PC10 would have affected approximately 125 hectares of Fonterra-owned land, including the Manufacturing Site.

A plan change proposal in this area holds significance for the TWWG, as any rezoning and development must take into account cultural values, environmental considerations, and the principles of kaitiakitanga (guardianship) to ensure the protection of the land and its resources.

Hamilton City Council (HCC) has acknowledged the need for additional industrial zoning in Hamilton, presenting Fonterra with an opportunity to influence both zoning and infrastructure outcomes around the Te Rapa Factory. The rezoning proposed under PC10 would have provided Fonterra with an opportunity for greater control over the land surrounding the facility, ensuring alignment with future development plans.

By late 2023, HCC announced a delay in progressing PC10, citing the impact of the upcoming elections. Subsequently, HCC decided not to advance PC10. In response to this, and with the aim of protecting the Te Rapa Dairy Factory from land use incompatibility and reverse sensitivity issues, Fonterra chose to pursue the plan change as a private initiative, leading to the development of Plan Change 17 (PC17).

PC17 encompasses approximately 91 ha of largely Fonterra-owned land. The plan change area is described as three blocks; West Block, North Block and Southeast block and contain the following parcels:

### West Block:

- Section 1 & Section 3 SO 456626
- Lot 1 – 6 DPS 11087;
- Part Lot 2 DPS 10804;
- Lot 1 DPS 34481; and
- Part Lot 1 DPS 10804;

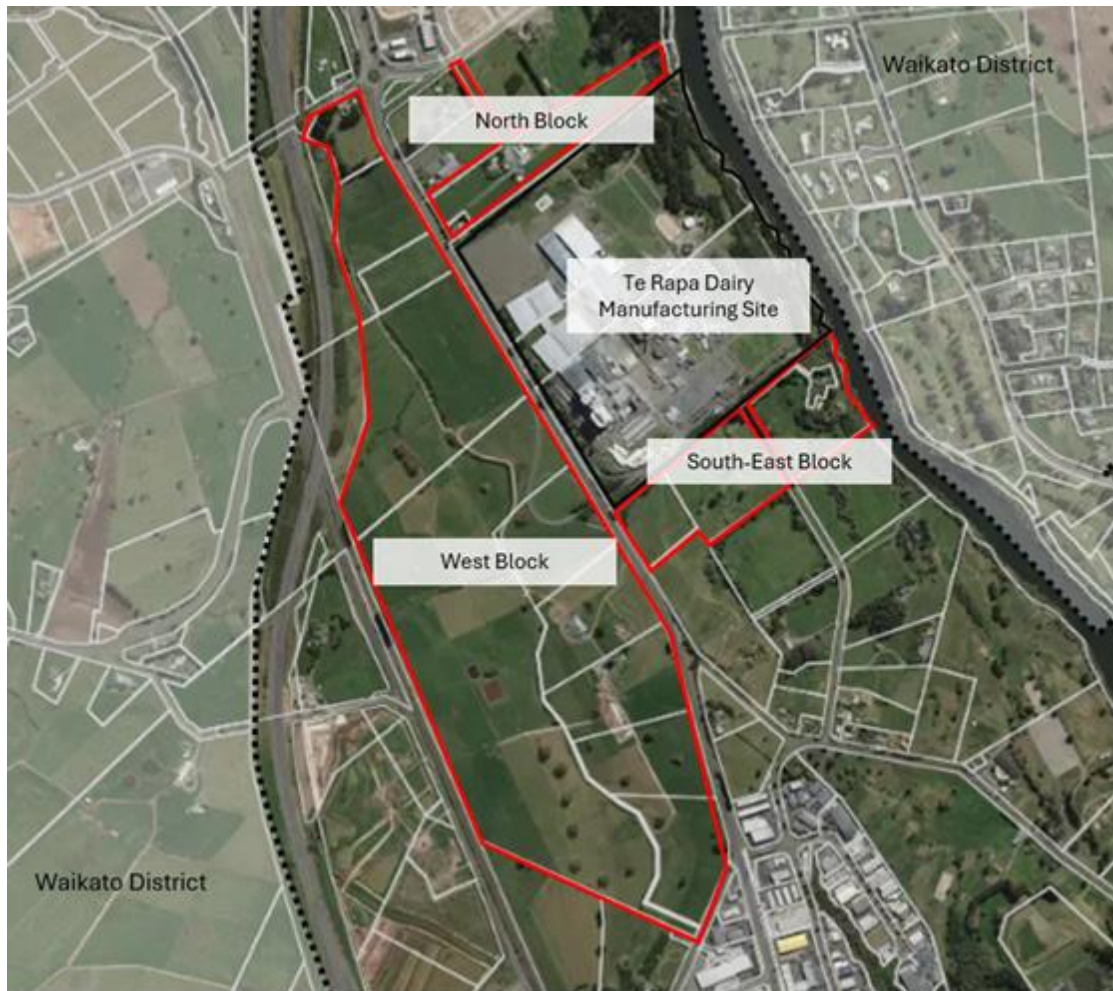
### North Block

- Lot 1 DP 551065; and
- Lot 1 DPS 8230

### South-East Block:

**Draft**

- Lot 5 DPS 18043;
- Lot 1 DPS 85687; and
- Lot 1-3 DPS 61136



**Fig 1:** Site Overview: The extent of the plan change request is shown in red outline.

The objectives of PC17 include:

1. Live-zone all Fonterra-owned land to Te Rapa North Industrial Zone
2. Protect the Te Rapa Dairy Manufacturing Site from incompatible surrounding land use and reverse sensitivity risk.
3. Future proof rail access on the North Island Main Trunk Line.

As PC17 progressed, a cultural analysis was commissioned to assess and address any potential cultural impacts associated with the proposed plan change. This analysis would ensure that cultural considerations, particularly those of Tangata Whenua, are integrated into the decision-making process.

To undertake the cultural analysis, the TWWG was provided the following specialist assessments (in draft form) that were further explained, as required, in workshops with their related authors.

- Archaeology
- Freshwater Ecology & Pekapeka
- Infrastructure (Three waters)
- Geotechnical & Contamination
- Economics
- Rail Report
- Planning Provisions
- Landscape & Visual

### 3. SITE DESCRIPTION

The subject site encompasses approximately 91 hectares of land located at the northern extent of Te Rapa, approximately 8 kilometres north of central Hamilton. This site lies within the northernmost part of the Hamilton City District, near the boundary with the Waikato District.

The site comprises three distinct areas, all of which are bordered by significant infrastructure and natural features. To the east, the Waikato River forms the natural boundary, while to the west, the Waikato Expressway (State Highway 1C) and the North Island Main Trunk rail line define the site's edge. To the north, the site is bounded by Hutchinson Road and Bern Road, and to the south by Old Ruffell Road and adjacent property boundaries. Each of the three areas has frontage along Te Rapa Road, which runs north-south through the centre of the site.

The topography of the site largely consists of a central, near-level floodplain surrounding the Te Rapa Stream, with slopes descending towards the stream at gradients generally ranging between less than 10° and 18°. The two sections of the site located east of Te Rapa Road are predominantly level, although the northern portion features steep slopes at its eastern end, which form the banks of the Waikato River.

The Te Rapa Stream flows north to south through the centre of the Te Rapa Farm block, while the Waikato River runs adjacent to the easternmost part of the site, forming the eastern boundary of the proposed plan change area.

Access to the site is primarily via Te Rapa Road, which is classified by HCC as a major arterial transport corridor. Additional access is provided by Hutchinson Road, which is classified by Waka Kotahi New Zealand Transport Agency (NZTA) as a secondary collector and Meadow View Lane, which NZTA classifies as a local collector.

State Highway 1C (the Waikato Expressway) is located nearby to the northwest, providing regional road connectivity. The North Island Main Trunk Line forms part of the western boundary of the site, with the nearest stopping point being the Mainfreight Depot, located just south of the junction between Onion and Ruffell Roads.

## 3.1 Water tributaries and natural wetlands

### Natural wetlands

A mainstream channel runs in a north-south direction through the centre of the West B lock, with a tributary crossing the southwestern corner and merging with the main channel near the southern boundary. A second stream channel begins in the wetland area in the southeast of the site, joining the main channel on a neighbouring property to the south. The waterbodies relevant to PC17 include:

1. Te Awa o Waikato (Waikato River)
2. Te Rapa Stream
3. Tributaries of the Te Rapa Stream
4. Natural Wetlands

Within the PC17 area, ten natural wetlands have been identified, that meet definitions the *Resource Management Act 1991* (RMA) and the *National Environmental Standards for Freshwater* (NES-F). Any changes to the nature or extent of these wetlands in future development must comply with District Plan and NES-F requirements. The wetlands have been highly modified by past agricultural use, meaning they no longer represent their natural habitat. As such, these wetlands are generally considered to have low ecological value, a common condition for wetland habitats throughout the Waikato region.

However, there is potential to enhance the ecological values of the wetlands, particularly through restoration planting aimed at improving biodiversity. This would contribute to overall catchment health and resilience, offering long-term environmental benefits.





**Fig 2.** Natural Wetlands as identified by RMA Ecology within the Fonterra-owned parts of Plan Change Area.

### Stormwater Wetlands

The PC17 Infrastructure Assessment recommends the creation of five artificial stormwater wetlands to manage and treat stormwater runoff from future development. These artificial wetlands will be subject to future consenting processes with the Regional Council and will require operational and maintenance manuals. Unlike natural wetlands, these stormwater wetlands are not regulated under the District Plan or NES-F.

Tangata Whenua prefer to retain as much of the natural wetlands as possible, recognizing their cultural and ecological significance.



### **National Environmental Standards for Freshwater (NES-F), District & City Operative Plans**

The National Environmental Standards for Freshwater overrides any rules or requirements within a District Plan, and Tangata Whenua support the restriction of activity within a 10-meter buffer around natural wetlands. They rely on the NES-F controls, which regulate potential adverse effects within 100 meters of a natural wetland. Additionally, Clause 70 of the NES-F mandates that structures, which would include roads crossing the Te Rapa Stream or its tributaries, must not create barriers to the passage of native fish.

The Hamilton City Operative District Plan requires buildings to be set back at least 50 meters from natural wetlands and a minimum of 6 meters from the banks of the Te Rapa Stream.

Tangata Whenua fully support the application of these standards, recognizing their importance in protecting waterways and wetlands from degradation.

## 4. TANGATA WHENUA & TE TIRITI O WAITANGI

### 4.1 Te Tiriti o Waitangi

Hamilton City Council has a responsibility to uphold the principles of *Te Tiriti o Waitangi* and to give effect to these principles, particularly within the framework of the co-governance arrangement with Waikato-Tainui.

Fonterra has demonstrated a commitment to this partnership by engaging early and acting in good faith, a key expectation of Tangata Whenua. This approach reflects a meaningful partnership, which is grounded in reciprocity and mutual benefit. The duty to act in good faith extends beyond consultation, requiring Fonterra to make informed decisions that consider the interests of Maaori.

The principle of protection is also demonstrated here, as the Crown must uphold an active, enduring partnership with Tangata Whenua. This partnership should acknowledge their rights to exercise *rangatiratanga* (chieftainship) and *kaitiakitanga* (guardianship), recognize the importance of *tikanga* (customary practices) and *maatauranga Maaori* (Maaori knowledge), and ensure that Tangata Whenua are involved at all levels of development and implementation, particularly in relation to stormwater discharge consents.

Additionally, Tangata Whenua seek to protect the history, *whakapapa* (genealogy), and other *taaonga tukuiho* (treasures handed down) associated with the land.

Genuine engagement in an enduring partnership with Tangata Whenua is key to making decisions that protect the interests of Tangata Whenua while addressing the needs of Fonterra. The transparency and reciprocity established so far through ongoing hui (meetings) and discussions between Tangata Whenua, project consultants, and Waikato-Tainui are embodied in the Letter of Intent signed between Fonterra and the Tangata Whenua Working Group (TWWG). It is the intention of the TWWG that this level of engagement with Fonterra continues into the future.

### 4.2 Tangata Whenua

The PC17 development encompasses the area of cultural interest for: Ngaati Wairere, Ngaati Maahanga, Ngaati Tamainupoo, Tuurangawaewae Trust Board and Waikato-Tainui due to ancestral and ongoing relationships with the land and its *taonga* (treasures). Each iwi, hapuu, and marae carries an inherent responsibility to sustainably protect *taonga*, *mahinga kai* (food gathering places), waters, flora, fauna, *taniwha* (spiritual guardians), and deities for the current and future enjoyment of their communities. For the purpose of this report, the term 'Tangata Whenua' is used to refer to the iwi and hapuu of this area.

The Tangata Whenua Working Group seek that Fonterra acknowledges and affirms the rights and interests of the Tangata Whenua and that their authority within this space is recognized and does not require further validation. Tangata Whenua maintain a spiritual and physical connection to the land and its *taaonga*, reinforcing their presence and interests in this development area.

### 4.3 Te Whakakitenga o Waikato-Tainui

*Te Whakakitenga o Waikato* (formerly *Te Kauhanganui*) is the governing body that represents the tribal members of 68 marae across Waikato-Tainui. Its role is to protect and advance the collective interests of the iwi and its beneficiaries. Many marae associated with Kirikiriroa-Hamilton are members of this iwi authority.

Waikato-Tainui has a Joint Management Agreement (JMA) with Hamilton City Council, guided by the *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010*. This JMA outlines the principles governing the relationship between Waikato-Tainui and HCC

The TWWG includes the membership of Waikato-Tainui who has informed this report and its development, in alignment with the principles of the JMA and the ongoing co-governance relationship.

## 5. CURRENT MANAGEMENT PLANS

Fonterra holds responsibility for all activities arising from this Plan Change Request. Tangata Whenua, as *kaitiaki* (guardians), have a duty to ensure that the best outcomes for the restoration and protection of their *taonga* (treasures) are achieved. Therefore, any impacts resulting from development activities enabled by PC17 must meet the cultural, spiritual, and environmental standards and expectations set by Tangata Whenua. Given that Tangata Whenua have previously contributed to the development of integrated catchment management plans for this area, it is expected that the solutions outlined in these plans will be upheld unless alternative approaches are preferred by Tangata Whenua.

### 5.1 Catchment Management Plans

The *Te Rapa Integrated Catchment Management Plan* (ICMP) is currently under review for consultation. The ICMP adopts an interdisciplinary design approach that integrates stormwater management with the ecological, geomorphological, and hydrogeological characteristics of the catchment. The plan aligns with best practices in urban design, public amenity, informal recreation, safety, and the cultural values of the community. A core objective of the ICMP is to implement water-sensitive design principles that align with *Te Ture Whaimana o te Awa o Waikato* (the Vision and Strategy for the Waikato River).

In essence, each ICMP seeks to provide multiple public benefits and plays a vital role in fostering a unique sense of place for Hamilton, particularly in Te Rapa North.

Future development arising from PC17 will be subject to the ICMP. The ICMP is expected to deliver high-value stormwater management solutions for both Tangata Whenua and the wider community, with clear priorities identified to achieve these outcomes.

### 5.2 Stormwater Management Plan

The objective of the Stormwater Management Plan (SMP) is to achieve sustainable outcomes in the management of stormwater for the benefit of the Council, communities, and stakeholders.

Achieving these outcomes is a shared responsibility among the Council, iwi as Tangata Whenua, stakeholders, and the community.

The key objectives of the SMP are as follows:

1. Uphold the principles of *Te Ture Whaimana o te Awa o Waikato*.
2. Facilitate access to clean water for recreational, cultural, and commercial purposes.
3. Ensure that current and future generations inherit healthy and productive waterways, supported by wise stormwater management practices that protect water quality and promote sustainability.
4. Minimise risks to people and property from natural hazards and accidental events.

5. Secure and enhance the public amenity values associated with stormwater systems and the receiving environments.

These objectives underscore the importance of integrating cultural and environmental considerations into stormwater management practices to support long-term sustainability and the health of water bodies for both Tangata Whenua and the wider community.

## 6. CATCHMENT OVERVIEW AND HISTORY

This section outlines key features of the area and provides historical context to Kirikiriroa Hamilton and surrounding cultural landscape. It is followed by a range of technical information drawn from various reports that accompany the Plan Change application.

According to the Hamilton City Council's website, in the section titled "Partnership with Iwi,":

*Virtually all the Tangata Whenua, (local people), of Kirikiriroa-Hamilton can trace their ancestry to Tāwhiao, a direct descendant of Hoturoa the captain of the Tainui canoe.*

*Kirikiriroa was a very fertile area and remnants of historical horticultural activity associated to pre-European arrival is common within the area of Te Rapa North.*

*The Crown Forces under General Cameron invaded the Waikato which resulted in the confiscation of 1.2 million acres of the Waikato. This included Hamilton's fertile horticultural lands.*

*The indigenous communities were then displaced and pushed out of Kirikiriroa toward Hukanui-Gordonton.*

It is noted Kirikiriroa is known for its fertile soils and was historically a hub of horticultural activity, with evidence of pre-European cultivation still found in the Te Rapa North area.

However, this rich land was subject to confiscation following the invasion of the Waikato by Crown forces under General Duncan Cameron. Approximately 1.2 million acres of Waikato land, including Hamilton's fertile horticultural areas, were confiscated. The indigenous communities were forcibly displaced, with many being pushed out of Kirikiriroa toward Hukanui-Gordonton.

The confiscation was enabled by policies that gave the Governor of New Zealand the authority to seize land from any tribe, or section of a tribe, deemed to be in rebellion against the Crown. These policies allowed the Governor to declare districts where customary land rights were extinguished, and lands were taken for European settlement. The confiscated land was used to fund the land wars, repay Crown debts, and compensate members of the colonial militia. In July 1863, Māori settlements were disrupted by General Cameron's invasion, and Kirikiriroa was renamed Hamilton in 1864 following the Crown's occupation.

The legacy of these confiscations continues to affect current generations of Tangata Whenua. The impacts include restricted access to historical areas, loss of traditional food sources (*kai*), and the inability to generate equity and wealth from lands that were wrongfully taken. Moreover, these injustices have hindered the ability of Tangata Whenua to participate in decision-making processes related to the management and use of *taonga* (treasures), as well as efforts to protect and restore the health and wellbeing of the Waikato River.

This historical context underscores the enduring effects of land confiscation and the importance of integrating cultural and environmental considerations in modern land use and resource management planning.



## 7. MATTERS OF SIGNIFICANCE

As outlined in the previous section, the Plan Change Area falls within the *raupatu* (confiscation) boundary, established through the *Suppression of Rebellion Act 1863* and the *New Zealand Settlements Act 1863*. However, there are additional significant matters that the developer must take into consideration.

### 7.1 Te awa o Waikato / The Waikato River

The area in question lies within the catchment of the Waikato River, and it is essential to recognize the profound significance of all waterbodies within this catchment to Tangata Whenua, as they are inextricably linked. For Waikato-Tainui, the following statement captures the depth of their relationship and connection to the Waikato River:

*“The Waikato River is our tuupuna (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...”<sup>1</sup>*

### 7.2 Infrastructure assessment

On Wednesday, 18th September 2024, the Tangata Whenua Working Group (TWWG) convened with Harrison Grierson and Fonterra staff to evaluate the Infrastructure Assessment prepared for PC17. The workshop covered various infrastructure aspects, including stormwater management, wastewater treatment, water supply, and the provision of electrical and telecommunications services.

#### Stormwater Management

The workshop included a detailed presentation that outlined stormwater catchments and the proposed treatment methodologies. The TWWG recognizes the potential use of swales or rain gardens for at-source treatment across the Plan Change Area. In the West Block, stormwater is expected to be collected through a pipe network, eventually discharging into the proposed wetlands for secondary treatment before being released into the Te Rapa Stream. The TWWG is supportive of both primary and secondary treatment prior to any discharge into the stream. Furthermore, the group endorses the treatment train and flow attenuation approach for stormwater management.

#### Wastewater Treatment

For Tangata Whenua, any structure that pierces the bed or banks of the Waikato River is symbolically significant, akin to piercing the veins of an ancestor. Tangata Whenua strongly prefer that such structures be removed or

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<sup>1</sup> *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, Preamble, Te Mana o te Awa (1).*

minimized wherever possible, as this is viewed as beneficial for the health of the river. However, if structures are necessary, they should be designed to minimize impacts on the natural functions of rivers and streams, particularly in relation to channel morphology, sediment deposition and erosion, habitats of taonga species, access to significant sites, and customary practices such as food gathering and fisheries.

The TWWG acknowledges that the Pukete Wastewater Treatment Plant is currently operating at full capacity and that upgrading the facility to accommodate future demand is a priority for Hamilton City Council, including that arising from development in Hamilton North. Fonterra is not currently considering on-site wastewater treatment and disposal, though it may be considered in the future as a temporary solution.

Concerns were initially raised by the TWWG regarding the potential location of wastewater storage tanks, but these concerns were addressed during the workshop when the pump stations and storage facilities were moved further inland, away from the Waikato River. The TWWG also expressed concerns about the originally proposed storage capacity of the tanks, which allowed for only eight hours of storage before potential overflow. The proposed capacity has since been increased to 24 hours, addressing the group's concerns. The TWWG supports the mitigation strategies proposed in the report, noting that multiple risk management measures are in place in the event of a system failure.

The primary concern for the TWWG is the protection of the Waikato River (awa) to the highest possible standard, ensuring no further degradation of this ancestral water body and its ecosystems. The TWWG also emphasizes the importance of designing wastewater systems to prevent cross-contamination with stormwater systems. They recognize that wastewater services are reliant on Hamilton City Council and the available treatment capacity. Additionally, the TWWG supports a moratorium on wastewater to reduce the demand on the treatment infrastructure. Should alternative options be required due to development needs, the TWWG would appreciate being included in future discussions regarding these investigations.

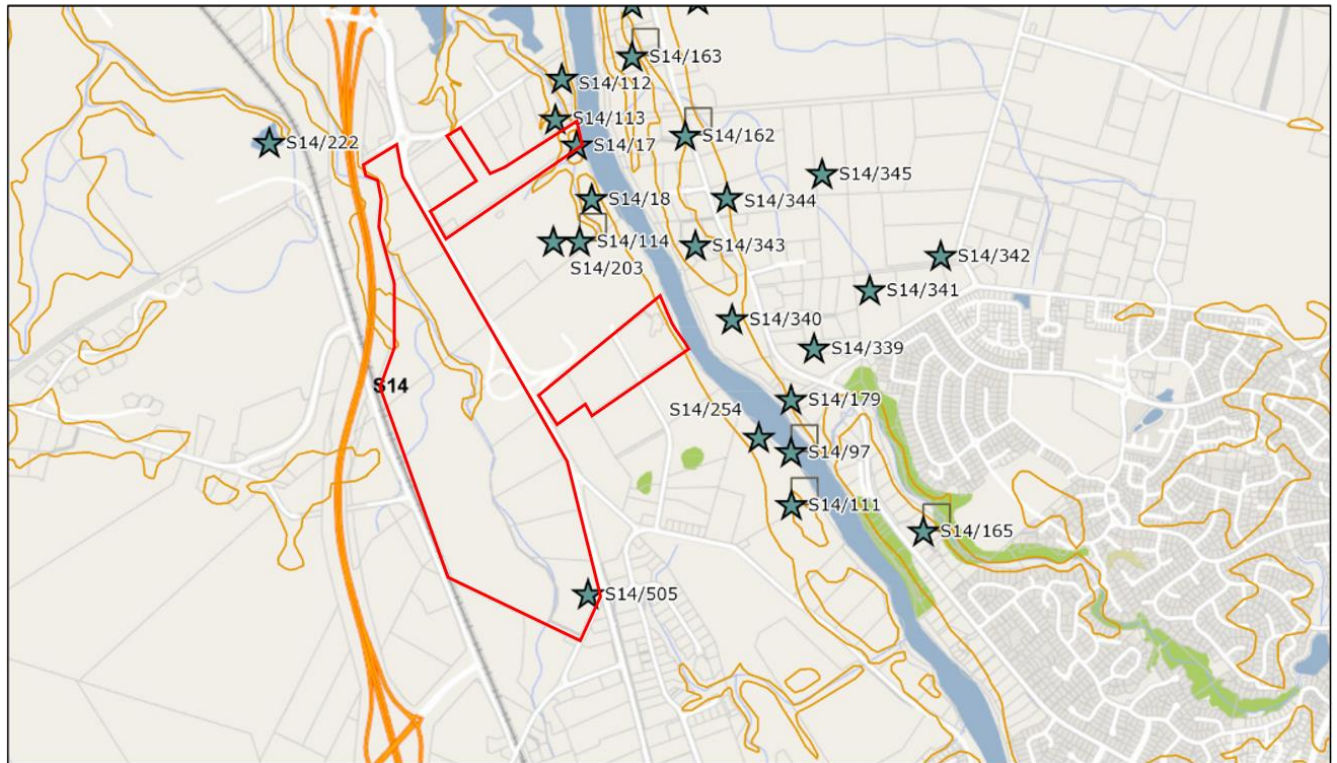
### **Water Supply**

The TWWG understands that freshwater will be sourced from the Pukete Reservoir however, there are no current funds allocated from Hamilton City Council for network upgrades or water treatment. After discussions in the infrastructure workshop, the TWWG supports the use of rainwater harvesting and greywater recycling within the development to reduce the strain on the existing water network.

### **Electrical and Communication Supply**

The TWWG acknowledge that discussions between Fonterra and WEL Networks indicate an insufficient power supply, which may necessitate the construction of a new substation. The TWWG advocates for the use of solar panels in the industrial development where feasible. Additionally, the TWWG recommend that Fonterra engage with Ruakura Energy, which has developed its own substation at the Ruakura Port development, to explore the potential cost benefits of creating a similar substation for Fonterra's operations.

### 7.3 Archaeological Report and site visit



**Fig 3.** Archmap Site showing distribution of NZAA site's within and around the Plan Change Area (from Sian Keith Report).

An initial archaeological field assessment was undertaken on 2<sup>nd</sup> August 2023 with Anne O'Hagan and representatives from Ngaati Wairere and Fonterra.

On 2nd September 2024, the Tangata Whenua Working Group (TWWG) participated in an Archaeological Workshop led by Sian Keith, during which the Archaeological Assessment for the Private Plan Change Request at Te Rapa, authored by Anne O'Hagan and updated by Sian Keith, was reviewed. Fonterra and Harrison Grierson were also in attendance.

The TWWG fully supports the recommendation that no future development should take place at Pā Site S14/17, which is recorded within the Plan Change Area. This site holds significant cultural and historical value, and its preservation is of paramount importance to the group.

During a site visit to the Fonterra farm on 3<sup>rd</sup> October 2024, the TWWG observed a large number of clustered borrow pits, which the report described as "three clusters of horticultural activity within the Plan Change area." Recognizing the cultural significance of these traditional garden sites, the TWWG expressed a collective desire to preserve these areas from any future development. However, if avoidance of Site S14/505 is not possible due to necessary earthworks, the TWWG strongly recommends that an Archaeological Authority be obtained before any works commence, ensuring the site's protection and appropriate handling of any archaeological finds. At this stage, the TWWG do not wish to express any mitigations for this area within this report. Additionally, the TWWG noted the presence of a small hill (Figure 6) located on the farmland (Figure 5). The site was investigated (hand augers) during the site visit (Figure 4) and had a 10cm layer of natural subsoil with no archaeological

evidence found . While inquiries were made regarding the historical significance of this feature, uncertainty remains about its cultural importance to the TWWG. Further investigation may be needed to determine its relevance.

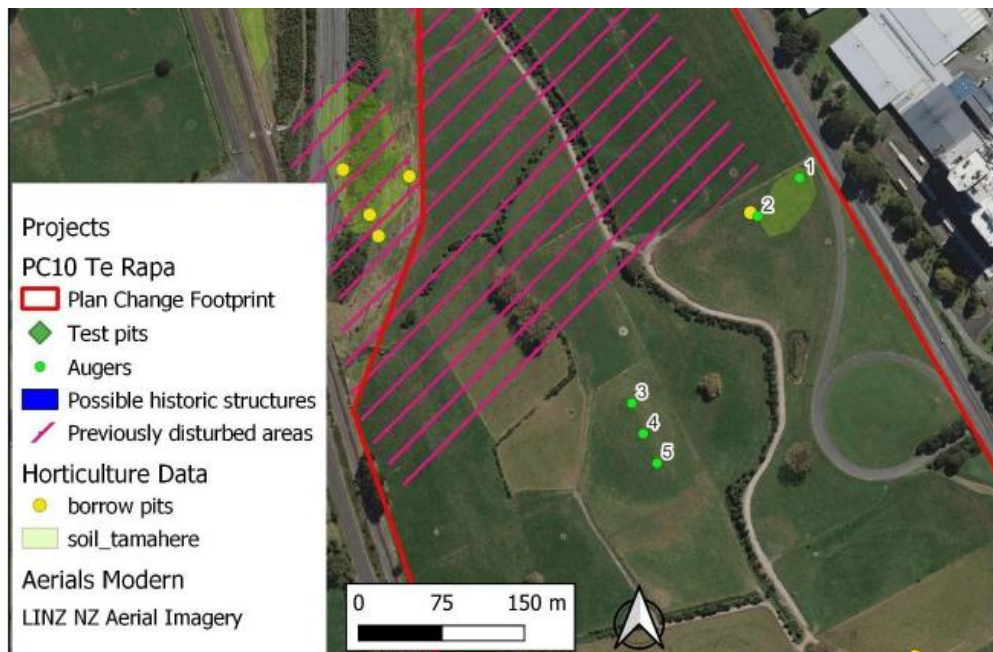


Figure 26: Plan of hand augers in northwestern portion of the Plan Change Area.

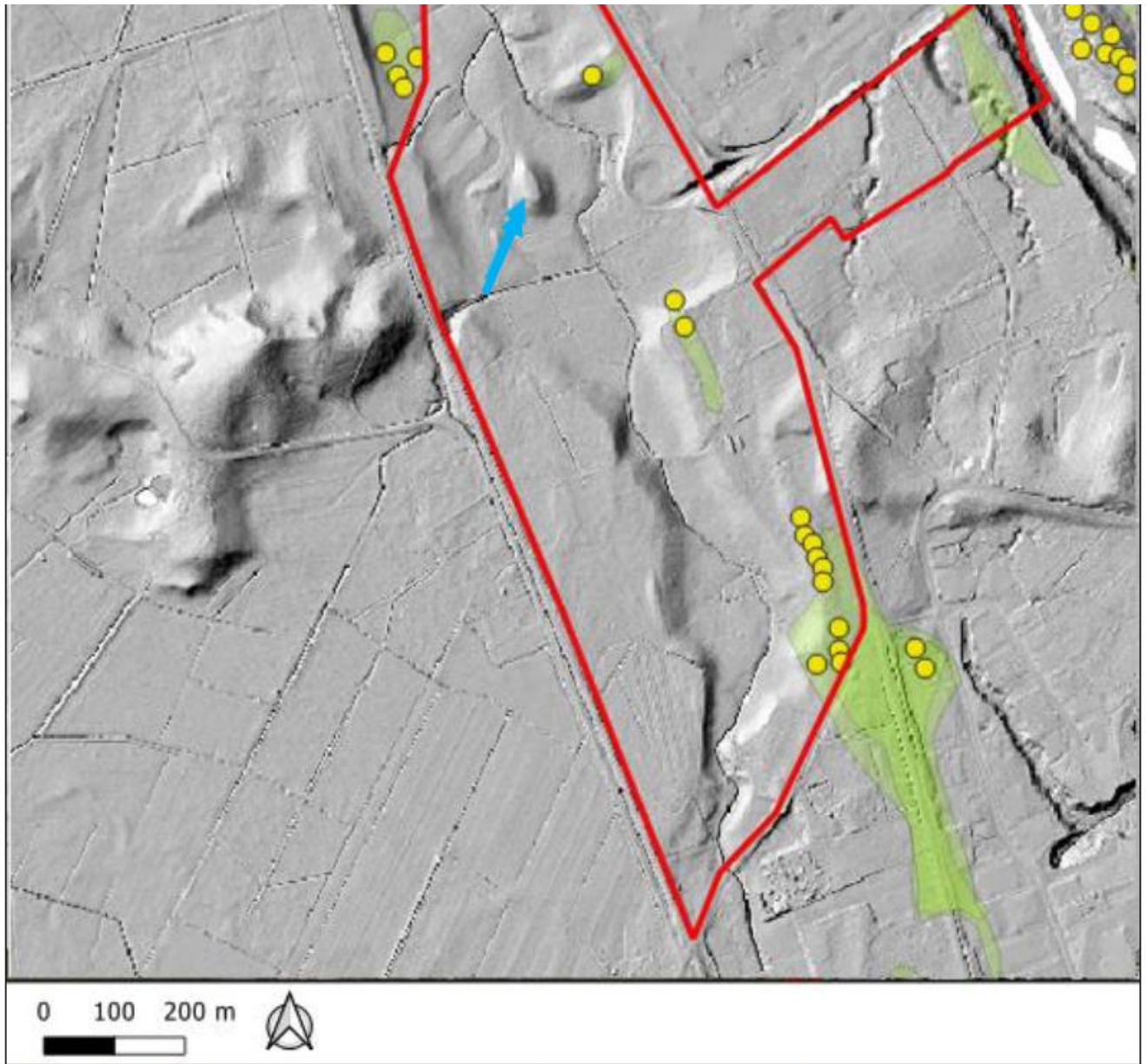
**Fig 4.** Hand auger section within the northwestern Plan Change Area (from Sian Keith Report).



Figure 28: Image looking west across the hill.

**Fig 5.** Photograph of a small hill that was identified during field assessment (from Sian Keith Report).





*Figure 20: LiDAR. Modified soils and borrow pits shown. Blue arrow denotes hill for inspection.*

**Fig 6.** LiDAR image of the small hill (from Sian Keith Report).

## **7.4 Ecology (Freshwater) Assessment**

On 19<sup>th</sup> September 2024, the Tangata Whenua Working Group (TWWG) participated in an Ecological Workshop led by Graham Ussher, where the Ecological Values and Effects Assessment for the Private Plan Change Request at Te Rapa, was reviewed. Gerry Kessell provided the in-depth knowledge surrounding the Pekapeka (Bats) and has provided a bat-specific Ecology Report. Fonterra and Harrison Grierson were also in attendance.

The method of assessment for the Ecological reports were both desktop assessment and field assessment. The TWWG were specifically interested in the ecological values, terrestrial ecology and aquatic ecology.

The TWWG agree that the ecological values identified and documented in the ecological report will enable significant enhancements to the waterways, riparian margins, wetlands and wildlife habitats. Furthermore, the TWWG agree that the wider setbacks and incorporation of native vegetation, along the waterways, including Te Rapa Stream, its tributaries and the natural wetlands, will be of benefit to the receiving environment.

PC17's ecological response is in line with the recommendations of the TWWG, particularly where riparian margins, building setbacks and stormwater is being considered.

## **7.5 Planning Provisions**

On 3rd October 2024, Harrison Grierson, represented by Nick Grala and supported by Jodie Jenions and Fonterra, presented the current planning provisions to the Tangata Whenua Working Group (TWWG). The TWWG understands that the previous Development Concept Plans that form the basis of the current Te Rapa North Industrial Zone have been superseded and that Plan Change 17 (PC17) will introduce a Structure Plan to guide the development of the zone. It is also understood that proposed and amended planning provisions will not directly impact the Te Rapa Dairy Manufacturing Site.

PC17 seeks to enhance the existing vegetation on Fonterra-owned land along the Waikato River (awa), in areas identified as Significant Natural Areas (SNA). The Waikato River also serves as a travel corridor for Pekapeka (bats), and Fonterra has undertaken studies to assess the potential for Pekapeka to roost or travel through this region. However, no evidence has been found to suggest that Pekapeka are present on the Fonterra-owned parts of the Plan Change Area. The TWWG supports planning policies and provisions that prioritize ecological protection and enhancement.

Additionally, the TWWG understands that the SNA will be reclassified as an "Open Space Zone," which will encompass the northern extent of the Mangaharakeke Paa. Discussions have also been held regarding the Northern River Crossing (NRC) as part of Hamilton City Council's long-term plan. Fonterra has expressed support for the potential connection of the NRC through the Fonterra farm, as well as the crossing on the eastern side of Te Rapa Road. The TWWG does not oppose the NRC in principle and encourages Fonterra and Hamilton City Council to engage with them in the future regarding the location of the NRC.

The TWWG also supports the use of native species for any required buffer zones or planting. The TWWG recommend that the native species be sourced locally from tribal nurseries and that tribal planting businesses be considered in the planting process.

In terms of environmental setbacks, the TWWG endorses a 10-metre setback from the Te Rapa Stream (the primary surface water body on the Te Rapa Farm) and a 5-metre setback from other watercourses, as defined in the ecological assessment. Furthermore, they support a 30-metre building setback from the bank of the Waikato River, a 5-metre setback from any adjoining SNA, and an 8-metre building setback from any boundary adjacent to an Open Space Zone.



The TWWG acknowledges that the Pukete Wastewater Treatment Plant is currently undergoing an upgrade due to capacity issues. The TWWG recommend that any wastewater storage for PC17 will not negatively impact the land, the Waikato awa or any tributaries

The TWWG makes the following recommendations:

- The 91 hectares of deferred industrial-zoned land should be developed for industrial purposes.
- The Te Rapa Dairy Manufacturing Site should be protected from reverse sensitivity, ensuring that any rezoning of nearby properties does not affect the Mangaharakeke Paa site.
- The Structure Plan should replace references to Comprehensive Development consent for Te Rapa North Industrial Zone.
- Infrastructure upgrades and connections should be developed to ensure the proper functioning of the area and its surroundings.
- Landscaping and building setbacks along riparian margins and external boundaries of the plan change area, including sections that adjoin the Deferred Industrial Zone, the Waikato River, and roads, should meet the following dimensions:
  - 10-metre setbacks from the Te Rapa Stream and 5-metre setbacks from other watercourses as defined in the ecological assessment.
  - Building setbacks of 30 metres from the bank of the Waikato River, 5 metres from any adjoining SNA, and 8 metres from any boundary adjacent to an Open Space Zone.
- Fonterra should underlay SNAs within the Plan Change Area with Open Space Zone where feasible.
- Fonterra should provide for the restoration and preservation of the Mangaharakeke Paa site.
- Fonterra should ensure the protection and enhancement of the existing ecology through appropriate planning provisions.
- Fonterra should engage with the TWWG in future discussions regarding the location of the Northern River Crossing.
- Fonterra should encourage Hamilton City Council to engage with the TWWG on the Northern River Crossing location in the future.

## 7.6 Landscape Design

The *Assessment of Landscape Effects*, completed on 6th September 2024 by KPLC Planning Landscape Consultants, has been reviewed in collaboration with the Tangata Whenua Working Group (TWWG). The TWWG has been asked to work alongside Fonterra to finalize the Landscape Assessment, as outlined in paragraphs 2.9 and 2.10 of the Assessment of Landscape Effects (ALE).

The TWWG confirms that, as stated in paragraph 2.9 of the ALE, Fonterra has engaged with key iwi groups, including Ngaati Wairere, Ngaati Maahanga, Ngaati Tamainupoo, the Tuurangawaewae Trust Board, and Waikato-Tainui. As part of the CIA process, the TWWG has carefully considered the Landscape Assessment, including provisions for landscaping and building setbacks along riparian margins and the external boundaries of the Plan Change area. These areas include sections adjoining the Deferred Industrial Zone, the Waikato River, and roadways.

The TWWG supports the implementation of landscape setbacks as follows:

- A 10-metre setback from the Te Rapa Stream, the main surface water body on the current Te Rapa Farm.
- A 5-metre setback from other watercourses, as defined in the ecological assessment.
- A 30-metre building setback from the bank of the Waikato River.
- A 5-metre setback from any adjoining Significant Natural Area (SNA).
- An 8-metre building setback from any boundary adjoining an Open Space Zone.

Fonterra has discussed applying the Open Space Zone to parts of the Plan Change Area overlaid with SNAs, and the TWWG is supportive of this proposal. The group recommends that indigenous species be prioritized for revegetation efforts in this area, wherever feasible.

Mangaharakeke Paa, a site of significant cultural importance adjacent to the Plan Change area, and the Paa site identified as S14/17 that is within the Plan Change Area, should both be preserved and restored through landscape enhancements using indigenous species. The TWWG emphasizes the use of eco-sourced indigenous plants for the Plan Change area, ideally from local nurseries. Furthermore, the TWWG encourages Fonterra to consider using Waikato-Tainui tribal nurseries for plant supply and planting services.

The TWWG recommends that indigenous species be used for landscaping within PC17, particularly for riparian margins, shelterbelts, and planted buffer zones where possible.

## **7.7 Cultural Symbolism**

The TWWG welcomes opportunities to incorporate cultural narratives and symbolism into future development to share the history and significance of the whenua and surrounding environment. The TWWG, comprising Ngaati Wairere, Ngaati Maahanga, Ngaati Tamainupoo, the Tuurangawaewae Trust Board, and Waikato-Tainui, is collectively supportive of sharing these cultural narratives.

There are numerous opportunities for cultural symbolism throughout the development, particularly along the wetlands, walkways, and at significant sites identified in the archaeological report. Cultural symbolism may take various forms, such as *pou* (carved posts), information boards, plaques, and other interpretive elements.

The TWWG looks forward to collaborating with Fonterra and/or future developers on incorporating these cultural elements into the project, ensuring that the rich cultural heritage of the area is represented and respected.

## 7.8 Waahi Tapu / Sites of Significance to Tangata Whenua

The *Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010* formally acknowledges the Waikato River as a tuupuna (ancestor) with *mana* (spiritual authority and power). The river embodies the *mana* and *mauri* (life force) of Waikato-Tainui, reflecting its profound cultural and spiritual significance.

The close relationship between Waikato-Tainui and the Waikato River establishes a responsibility to protect *te mana o te awa* (the authority of the river) and to exercise *mana whakahaere* (tribal authority) in accordance with long-established tikanga (customary practices). These responsibilities aim to ensure the restoration and protection of the wellbeing of the river and its ecosystems. The Waikato River and all associated *taonga* (treasures) hold immense significance for Tangata Whenua.

Although many sites of archaeological and cultural significance to Tangata Whenua have been destroyed, damaged, or extensively altered by urban and rural development, rendering them difficult to recognize for their original form and purpose, their historical and cultural importance remains undiminished. These sites form a critical part of the cultural heritage and should be appropriately acknowledged and protected for the benefit of current and future generations.

In many instances, a site or area holds both archaeological and cultural significance to Tangata Whenua. Importantly, the extent of sites of significance to Tangata Whenua often encompasses a larger area than what is recognized as an archaeological site. Therefore, these areas should be viewed holistically, considering both their archaeological and cultural importance.

## 7.9 Maatauranga Maaori

The status of *maatauranga Maaori* is formally recognized in New Zealand legislation, including *Te Tiriti o Waitangi*, and is specifically acknowledged in Objective (m) of *Te Ture Whaimana* (The Vision and Strategy for the Waikato River). Maatauranga Maaori, in its simplest form, refers to the unique Maaori worldview, encompassing traditional knowledge, values, and cultural practices. Like Western knowledge systems, maatauranga Maaori includes both qualitative and quantitative elements aimed at protecting the relationships from which the culture and identity of Tangata Whenua are derived.

A key consideration for Fonterra is the recognition of the multidimensional nature of maatauranga Maaori. This knowledge system is not only about preserving and understanding the physical environment but also about maintaining the spiritual, cultural, and social relationships that underpin Maaori culture. It is essential that maatauranga Maaori is respected and integrated into decision-making processes, ensuring that the perspectives of Tangata Whenua are valued and protected.

## 8. TE TURE WHAIMANA O TE AWA O WAIKATO

The following context is relevant to this section.

### 8.1 Waikato River Arrangements

The Waikato River arrangements stem from extensive and significant negotiations between the Crown and five iwi of the Waikato River. These negotiations culminated in the signing of Deeds and the enactment of three key pieces of legislation:

- 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*.

These legislative outcomes are grounded in Treaty settlements and agreements and provide an important context for understanding the governance and management of the Waikato River. The principles of *Te Tiriti o Waitangi* (The Treaty of Waitangi) are central to these arrangements and are recognized in relevant legislation, such as section 8 of the *Resource Management Act 1991* (RMA), alongside other key provisions including sections 6(e) and 7(a) of the RMA, which protect Māori relationships with natural resources.

A distinctive feature of the Waikato River arrangements is the statutory framework surrounding *Te Ture Whaimana o te Awa o Waikato* (The Vision and Strategy for the Waikato River). This document is regarded as one of the most influential planning frameworks in New Zealand, given its legal weight and comprehensive approach to restoring and protecting the health and wellbeing of the Waikato River.

Although not directly related to the PC17 Plan Change area, the *Ngā Wai o Maniapoto (Waipā River) Act 2012* was introduced to encompass the upper catchment of the Waipā River, extending to its confluence with the Puunui River.

*Te Ture Whaimana* applies to the entire Waikato and Waipaa River catchments, ensuring a holistic approach to river management and the protection of these vital waterways.

### 8.2 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 Waikato River;
2. Te Ture Whaimana is intended by Parliament to be the 'primary direction setting document' for the Waikato River;<sup>2</sup>
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);<sup>3</sup>
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;<sup>4</sup>
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;<sup>5</sup> and
6. a regional plan must 'give effect to' Te Ture Whaimana.

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. The objectives are provided in the following section.

The TWWG recommend that any development should give effect to the relative objectives of Te Ture Whaimana.

### 8.3 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

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<sup>2</sup> Section 5(1) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

<sup>3</sup> See the preamble of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

<sup>4</sup> Section 11 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

<sup>5</sup> Section 12(1) of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

- (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 maatauranga Maaori and latest scientific methods.



## 9. RESTORATION AND PROTECTION: BETTERMENT

The private plan change and any consents required for future development must align with the objectives and rules outlined in the *Waikato Regional Plan* and relevant District Plans. Meeting these objectives ensures a balance between development activities and their environmental impact.

The TWWG believes that the proposed Structure Plan and provisions associated with this plan change and the proposed development that would be enabled by the plan change, are consistent with the obligations of Tangata Whenua as *kaitiaki* (guardians) of the *whenua* (land) and *wai* (water).

Beyond the statutory conditions required by planning documents and common requirements to meet the obligations of the *Resource Management Act* (RMA) 1991, Tangata Whenua seek a *koha* (gift) that goes beyond simply avoiding, remedying, or mitigating adverse effects. Tangata Whenua aspire to leave a legacy of "betterment" and "gifting" to the *taonga* (treasures) affected by proposed developments and activities.

Some examples of such legacies include:

1. Restoration projects grounded in *maatauranga Maaori* (Maaori knowledge) that achieve the objectives of *Te Ture Whaimana*;
2. Restoration of *mahinga kai* (traditional food gathering areas);
3. Expression and celebration of historical and cultural knowledge at significant sites;
4. Educational opportunities designed to inspire rangatahi (youth) to take on *kaitiaki* roles, ensuring the continued guardianship of their environment.

A “gifting” approach fosters a holistic and culturally appropriate relationship between development and the environment, ensuring that the principles of *kaitiakitanga* (guardianship) are upheld.

## 10. SUMMARY

This report provides recommendations to be considered by Fonterra and Hamilton City Council, 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 an assessment of cultural advice for Fonterra and Hamilton City Council related to the private plan change.

If you have questions with this Report, please contact Carolyn Hopa and Jo Kukutai.

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