

IN THE MATTER of the Resource Management Act 1991
("RMA" or "the Act")

AND

IN THE MATTER of an application to **HAMILTON CITY COUNCIL** for private plan change 7 to the operative Hamilton City District Plan by **GREEN SEED CONSULTANTS LIMITED**

STATEMENT OF EVIDENCE OF NORMAN PETER SUNNY ROY HILL

1. INTRODUCTION

1.1 Teena koutou katoa. E mihi kau ana ki te tepu me nga rangatira e whakapiri nei i runga i te kaupapa o te wa nei.

1.2 My name is Norman Peter Sonny Roy Hill. I am an environmental and cultural specialist and a director of my own company, Te Hira Consultants Ltd, which I started in December 2020. From July 2016 to October 2019, I was a Senior Professional Consultant (cultural heritage/environmental management) at the Hamilton office of Boffa Miskell Ltd (Boffa Miskell), a company specialising in landscape, urban design and resource management. Prior to that, I spent several years working as a biodiversity ranger for the Department of Conservation. I have also been employed by Hamilton City Council ("HCC") as Maangai Maaori, since October 2018.

Qualifications and experience

1.3 I have a Bachelor of Science (BSc) degree from the University of Waikato (1998) and over 21 years' experience in a wide range of projects including environmental management, strategy and best practice corporate - cultural relationship engagement. I am affiliated to Waikato-Tainui Iwi, and Ngaati Whaawhaakia, Ngaati Naaho and Ngaati Mahanga hapuu (sub tribes).

1.4 I have extensive knowledge and experience in working with whaanau, hapuu and iwi throughout Waikato-Tainui, to ensure compliance with regulatory and cultural frameworks both in the context of Plan Changes and resource consent applications. I also assisted in the facilitation and development of Tai Timu, Tai Pari, Tai Ao, the Waikato-Tainui Environmental Plan ("EMP"), across marae and hapuu of Waikato-Tainui.

Involvement in the Project

- 1.5 I have been engaged by Green Seed Consultants Limited ("GSCL") to prepare a statement of evidence on the cultural effects of proposed Plan Change 7 ("PC7") to the operative Hamilton City District Plan ("District Plan").
- 1.6 I am familiar with the application site and surrounding environment. I facilitated a number of site visits with tangata whenua to gain a cultural understanding and connection to the site, and I have attended a number of ongoing workshops and meetings of the Tangata Whenua Working Group ("TWWG").

Purpose and scope of evidence

- 1.7 The purpose of this statement is to provide evidence in relation to the engagement and consultation process undertaken by GSCL; to identify the potential cultural effects of PC7 and how they are proposed to be avoided, remedied or mitigated; and comment on how, in my opinion, the relevant statutory documents (including the Resource Management Act 1991 ("RMA") and Te Ture Whaimana o te Awa o Waikato ("Vision and Strategy") have been addressed as they relate to cultural matters.
- 1.8 My evidence is structured as follows:
- (a) Relevant RMA provisions and key statutory documents (Section 3);
 - (b) Tangata Whenua in the Project Area (Section 4);
 - (c) Establishment and composition of the TWWG (Section 5);
 - (d) Consultation with TWWG (Section 6);
 - (e) Cultural and environmental effects of interest to tangata whenua (Section 7);
 - (f) Comments on submissions (Section 8); and
 - (g) Conclusions (Section 9).
- 1.9 A summary of my evidence is set out in Section 2 below.

Expert Witness Code of Conduct

- 1.10 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and to the extent that I am giving expert evidence, have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

2. **SUMMARY OF EVIDENCE**

- 2.1 Initial engagement between GSCL and Waikato-Tainui in 2018 led to the establishment of a Tangata Whenua Working Group ("TWWG"), under terms of reference to provide cultural and environmental advice in respect of proposed development at Rotokauri North. This has included the development of appropriate cultural and environmental mitigation recommendations through a Cultural Impact Assessment ("CIA"), which was lodged in support of the plan change request in April 2019 (Attachment 18 to PC7).
- 2.2 It has also resulted in a positive submission being made by the TWWG on PC7 as a submitter to the plan change process.
- 2.3 Importantly, the plan change applicant's intentions with respect to consultation have resulted in a good faith partnership and relationship of collaboration through the TWWG.
- 2.4 Mana whenua collectively agree that PC7 will assist in restoring the mauri of the site, particularly through the opportunity to enhance ecological values across the site, especially in relation to watercourses. PC7 also creates the opportunity for positive cultural, environmental, and social effects, that will enhance the holistic well-being of mana whenua.
- 2.5 Overall, the TWWG and mana whenua support PC7 and look forward to an ongoing relationship of good faith and partnership with the plan change applicant.
- 2.6 In addition to my evidence, Mr Sonny Matenga, Chairperson of the TWWG, will provide more details about the cultural significance of the Rotokauri North land to mana whenua, our ties and relationship to the land, and how PC7 will facilitate ongoing opportunities for mana whenua to continue to relate to and connect with the land. The relevant points Mr Matenga will address are attached as **Annexure A** to my evidence.

3. **RELEVANT RMA PROVISIONS AND KEY STATUTORY DOCUMENTS**

- 3.1 Various pieces of legislation and planning documents including the RMA, Local Government Act 2002 ("LGA") and Waikato Regional Policy Statement ("RPS") include processes for managing effects (also called impacts) of an activity on a range of values, including Maaori values. My evidence is informed by these statutory documents and the conclusions I have drawn are by reference to these matters.
- 3.2 The RMA includes a number of sections specifically designed to ensure that the various relationships of Maaori with taonga, kaitiakitanga and the principles of the Treaty of Waitangi are considered and protected. Applicants for consents or permits under the RMA are required to identify all effects of an activity and then demonstrate that, where adverse effects are identified, the applicant has satisfactorily shown they can avoid, remedy or mitigate such effects.

- 3.3 Consultation assists in satisfying the relevant statutory requirements under the RMA including:
- (a) Section 6(e) (relationship of Maaori with ancestral lands, waters and sites);
 - (b) Section 6(f) (protection of historic (including cultural) heritage from inappropriate use and development);
 - (c) Section 7(a), (kaitiakitanga); and
 - (d) Section 8 (Treaty of Waitangi).
- 3.4 The following sections of the LGA are considered the most relevant for PC7:
- (a) Section 4 (Treaty of Waitangi): Recognises and respects the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Maaori to contribute to local government decision-making processes; and
 - (b) Part 6 (Planning, Decision-making and Accountability), including the obligations of local authorities in relation to the involvement of Maaori in decision-making processes.
- 3.5 While not directly relevant to the Panel's consideration of PC7, I have also used the following sections of the Heritage New Zealand Pouhere Taonga Act 2014 to inform my evidence:
- (a) Section 3 (the purpose to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand);
 - (b) Section 42 (Archaeological sites not to be modified or destroyed unless authority granted); and
 - (c) Section 46 (2)(h)(i) (Application for authority must include details of consultation with tangata whenua has taken place, with details of the consultation, including the names of the parties and the tenor of the views expressed).
- 3.6 The Vision and Strategy forms part of the RPS, which PC7 must give effect to under section 75(3) of the RMA. However, section 17 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 ("Settlement Act") provides that a territorial authority must have "particular regard to" the Vision and Strategy when carrying out its functions or exercising powers under the RMA that relates to the Waikato River or to an activity within the catchment that affects the Waikato River, in addition to any requirements specified in the RMA. The overarching purpose of the Vision and Strategy

is to restore and protect the health and wellbeing of the Waikato River for future generations.

- 3.7 The EMP provides statements of iwi values, objectives, policies, guidance on the relationship of iwi to natural resources and the environment. Waikato-Tainui is recognised as an iwi authority, and their EMP was lodged with several councils, including Waikato Regional Council, in 2015. In accordance with section 74(2A) of the RMA, a territorial authority must take the EMP in account for any activity within the tribal area of Waikato-Tainui *“to the extent that its content has a bearing on the resource management issues of the district”*.

4. TANGATA WHENUA IN THE PROJECT AREA

- 4.1 The Rotokauri North development site connects to the wider catchment of Mangaheka, Tangirau and Waipa River. The Waipa River flows into the Waikato River. It therefore sits within the tribal boundary of Waikato-Tainui who hold the Mana Whakahaere (authority) over its lands and resources, including the Waikato River and its associated natural environs.
- 4.2 The Waikato-Tainui tribe is made up of the descendants of the 33 Waikato hapuu, who, at the date of this evidence, are represented by 68 Marae. There are approximately 75,000 registered members of Waikato-Tainui. The rohe of Waikato-Tainui includes the HCC district in terms of the LGA and the RMA, but also extends considerably beyond Hamilton’s district boundaries to the Waikato and Waipa districts.
- 4.3 Te Whakakitenga o Waikato Incorporated (“Te Whakakitenga”), the representative body of Waikato Tainui, is comprised of 136 elected members. Each of the 68 voting Marae elects two representatives to Te Whakakitenga and the Head of the Kaahui Ariki, Kiingi Tuheitea appoints one member. Te Whakakitenga is the ultimate governing body of Waikato-Tainui.
- 4.4 Within the broader Waikato–Tainui iwi which Te Whakakitenga represents, 33 hapuu of Te Whakakitenga exercise their rights and responsibilities to ensure their tikanga, kawa and values are upheld through the Waikato-Tainui structure.

5. TANGATA WHENUA WORKING GROUP

- 5.1 A TWWG was established in 2018 to provide local tangata whenua the opportunity to engage with GSCL in a direct and positive way regarding the proposed Rotokauri North private plan change and development.
- 5.2 The TWWG was made up of one primary representative and one proxy member representative of Waikato-Tainui, Ngaati Wairere, Ngaati Hauaa, Ngaati Tamainupo, Ngaati Maahanga and Ngaati Reko.

5.3 Mr Matenga will also address the Panel, as the current chairperson of the TWWG. The key matters that Mr Matenga will speak to (including the composition of the TWWG) are outlined in **Annexure A**.

6. **CONSULTATION WITH TANGATA WHENUA WORKING GROUP**

6.1 Waikato-Tainui encourages and advocates for developers and external agencies to undertake best practice early engagement with Waikato-Tainui as set out in section 5 ('Te Koorero Tahī me Waikato-Tainui, Consultation and Engagement with Waikato Tainui') of the EMP. This process is as follows:

(a) To engage with Waikato-Tainui in a timely, inclusive and participatory setting, seeking feedback and input into appropriate cultural and environmental mitigation solutions; and

(b) To ensure that adequate consultation with Waikato-Tainui has occurred, to ensure compliance with statutory/legal requirements.

6.2 A mutually agreed consultation process was agreed by Waikato-Tainui, and agreement was reached with the TWWG on how they wished to be consulted, and what further information they required in order for the consultation process to be meaningful and empowering for them.

6.3 Between December 2018 and January 2021, sixteen consultation and engagement meetings were held with the TWWG. The purpose of consultation hui was to review the proposed plan change and technical presentations, record discussion points and provide status updates of project developments as and when they occurred.

6.4 Three site visits were undertaken with TWWG in order to further understand and reaffirm the cultural importance of the site, including the overall ecological aspects of the whenua, wai and ecological values of the area. A cultural blessing was also carried on in 2019.

6.5 Consultation with the TWWG is also identified in Mr Matenga's statement (**Annexure A**), and Mr Matenga will speak to this matter in more detail at the hearing.

7. **CULTURAL AND ENVIRONMENTAL EFFECTS OF INTEREST TO TANGATA WHENUA**

7.1 TWWG considers all land within the rohe to be ancestral land. Even if they are not the 'owners' of the land they still have responsibilities and obligations as kaitiaki, therefore inappropriate activities that have adverse impacts on whenua, wai ora and heritage are not acceptable. Effective planning processes are needed for managing these effects.

7.2 Consultation with the TWWG identified the following matters as of particular importance:

- (a) Effects on cultural heritage and significant sites;
- (b) Effects on the relationship with the Waikato River; and
- (c) Effects on the relationship with indigenous ecosystem and biodiversity.

7.3 The following section of my evidence provides some detail on the nature of matters of importance raised by the TWWG, followed by the measures proposed to appropriately address any cultural effects of interest to mana whenua. As indicated in **Annexure A**, Mr Matenga will also speak to mana whenua's cultural, historic, and spiritual ties with the land and matters of importance to the TWWG arising from the land.

Effects on cultural heritage and significant sites

7.4 TWWG raised concerns about the various impacts on sites of significance, including traditional middens, and the Tangirau Wetland.

7.5 TWWG assisted in the design of the master plan. The issues they raised were considered and are reflected as part of the protection and enhancement of the site's cultural and heritage features.

7.6 As outlined in the evidence of Mr Arden Cruickshank, the archaeological assessment undertaken on the site for the proposed development does not identify any pre-1900's sites of archaeological significance, nor any 20th century sites of heritage or archaeological significance. However, the archaeological assessment does recommend an accidental discovery protocol, and TWWG recognise that this means that sites of archaeological significance may exist, including those of cultural significance, that have not yet been identified, but can be provided for and protected by such a protocol.

Effects on the relationship with the Waikato River

7.7 TWWG reaffirmed the obligations to recognise and uphold the Te Ture Whaimana o Te Awa o Waikato, the Vision and Strategy for the Waikato River, as the primary direction-setting document for the Waikato River. The Vision and Strategy for Waikato River is set out in Schedule 2 of the Settlement Act and states:

"Tooku awa koiora me oona pikonga he kura tangihia o te maataamuri. The river of life, each curve more beautiful than the last. 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."

- 7.8 The project team responded accordingly by way of ensuring that the various objectives the environmental and cultural aspects of the Waipa river related activities were planned and managed to achieve the vision. This has included reconsidering stormwater management solutions in the Integrated Catchment Management Plan for stormwater ("ICMP") which includes methods relating to the restoration of natural streams forming part of the Waikato River catchment, as well as stormwater management to ensure stormwater runoff is at a quality and quantity to minimise degradation of the watercourse network across the site and associated freshwater values.

Effects on the relationship with indigenous ecosystem and biodiversity

- 7.9 TWWG expressed concerns about the impacts of developments on environmental and ecological values. They were particularly concerned about potential impacts on natural systems and the life forms those natural systems support. TWWG wanted to ensure a balance of mauri (life force / cultural well-being) was maintained:

- (a) Generally in relation to wai (water), whenua (land), and taonga kararehe (special native animals); and
- (b) Specifically in relation to long-tail bats (pekapeka).

- 7.10 Indigenous fauna on site is described in the ecological documents prepared on behalf of both the HCC and the plan change applicant (including the evidence of Mr Miller), which collectively found that the overall ecological values of the land are low in relation to vegetation, avifauna and herpetofauna. The proposal is likely to have low impacts on those ecological values. Additionally, I understand that the section 42A author on behalf of HCC agrees with the applicant that the proposal presents an opportunity for positive ecological effects, with proposed enhancement of watercourses and the proposed 'green spine' to restore and enhance ecological values where possible across the site. Additionally, the identified Significant Natural Area, being Kereru Reserve comprising a stand of Kahikatea, is already protected under the District Plan, and will continue to be protected and enhanced.

- 7.11 The loss and fragmentation of indigenous vegetation and habitats as a result of PC7 will be minimal. Further, the proposal presents a significant opportunity to enhance the site's current ecological values, through replanting, rehabilitation and offset mitigation measures.

Methods to avoid, remedy or mitigate cultural environmental effects of interest to mana whenua

- 7.12 In summary, mitigation measures that have had input from TWWG and are proposed as part of the project include:

- (a) Specific measures identifying and acknowledging the places, values of heritage and cultural significance to tangata whenua to reaffirm 'whakapapa' the traditional cultural story/cultural narrative to support the cultural indigenous place-making throughout the development. This focuses on opportunities to recognise and provide for the enhancement and tangible reflection of mana whenua cultural values as a key element of land management and developments.
- (b) An ICMP that provides an overall solution to wastewater and storm water issues, including the installation and development of retention, attenuation and treatment devices which utilise land treatment/discharge, as well as the open spaces and park areas, and methods in place to manage stormwater quality and quantity.
- (c) The creation of a formal cultural reserve by way of covenanting Kereru Reserve, which reaffirms cultural connectivity and whakapapa to place and space by way of having a cultural landmark and feature within the development, as well as affirming cultural identify by way of naming and cultural symbolism in the reserve.

7.13 Subject to the effective implementation of the measures described above, it is my view that the concerns of tangata whenua will be appropriately addressed. These will also be addressed by Mr Matenga, as identified in **Annexure A** to my evidence, and he will speak to these in further detail at the hearing.

8. COMMENTS ON MATTERS RAISED IN SUBMISSIONS

8.1 The submissions received that raised cultural matters were:

- (a) The TWWG submission, which supported the plan change and sought some specific amendments, including ongoing work in good faith and partnership to ensure positive outcomes for tangata whenua; and
- (b) Te Whakakitenga o Waikato Incorporated, which also supported the plan change and sought any specific amendments required to reflect recommendations made in the CIA.

8.2 I note no submissions were received from mana whenua opposing the proposed development. In light of the above, there are no additional cultural matters arising from submissions that I need to specifically comment on.

9. CONCLUSION

- 9.1 The Rotokauri area has historical, cultural and spiritual importance to Waikato Tainui and the hapuu of Ngaati Wairere, Ngaati Hauaa, Ngaati Tamainupo, Ngāti Maahanga and Ngaati Reko. The protection of heritage, identity and environmental attributes, such as mauri, are vital to the well-being of mana whenua. Waikato Tainui continues to be bound by its cultural rules or cultural responsibilities in law and lore to protect and safeguard the spiritual and physical aspects of the environment.
- 9.2 A comprehensive and robust process of engagement and consultation with TWWG has occurred from December 2018 to April 2021. My evidence has shown key matters have been identified by way of supportive submissions from iwi (in particular the TWWG) and resulted in the adequate mitigation outcomes.
- 9.3 In summary, it is my view that:
- (a) The cultural issues raised during the consultation process have been adequately responded to and will be appropriately addressed through the mitigation measures outlined above.
 - (b) In my opinion and for the reasons outlined above, PC7 appropriately recognises and provides for cultural matters as required by the relevant regulatory framework, including the RMA, LGA, Vision and Strategy and EMP.
 - (c) Where potential adverse effects on cultural values have been identified, the PC7 Project Team has worked with Waikato Tainui through the TWWG to identify and adopt mitigation measures to address the potential effects. Consultation has ultimately informed the design of the masterplan.
 - (d) I do consider that the engagement undertaken between TWWG reflects a commitment by the developer to work collaboratively with Waikato Tainui and in accordance with the principles of partnership.
 - (e) GSCL has undertaken robust and transparent consultation with TWWG in a way that has empowered Waikato Tainui iwi and hapuu to make informed decisions on the PC7 development.

Norman Peter Sonny Roy Hill

24 September 2021

Annexure "A"

Speaking points for oral statement of Mr Sonny Matenga, Chairperson of the Tangata Whenua Working Group

- Mihimihi
- The significance of the Rotokauri North area to mana whenua.
- The mana enhancing engagement process with TWWG throughout the years.
- Mitigation options that protect and enhance cultural, heritage and environmental outcomes.
- Continued partnership engagement between mana whenua to partnership and legacy outcomes.
- Mihimihi close