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Kaitiaki Environmental Values  
Assessment Report

Mana Whenua Report  
for Ambury Properties Ltd

**Proposed Sleepyhead Estate Development in Ohinewai**

*Final Draft  
(version 4)*

10 April 2020  
Prepared by:

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Version Number	Document comments	Date
1	First Draft Report <i>Literature Review sent to Mana Whenua representatives for review</i>	14 March 2020
2	Second Draft Report <i>Fully developed report that incorporated comments from Mana Whenua representatives, as well as the statutory context of the information provided.</i>	27 March 2020
3	Final Draft Kaitiaki Environmental Values Report <i>Revised document that includes feedback from Mana Whenua before Mana Whenua review and discussion.</i>	5 April 2020
4	Final Draft (version 4) Kaitiaki Environmental Values Report <i>Revised document that includes final comments from Mana Whenua before being presented to governance committees of the four Mana Whenua organisations.</i>	10 April 2020

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## Executive Summary

This Kaitiaki Environmental Values Assessment report is a cultural values assessment report to inform, and respond to, the initial submission and subsequent request to the Proposed Waikato District Plan to re-zone 178ha of land in Ohinewai for the Sleepyhead Estate development. It is a report prepared by Whetū Consultancy Group on behalf of Waahi Whaanui Trust, Nga Muka Development Trust, Te Riu o Waikato Trust and Waikato-Tainui, who are collectively the organisations representing the interests of Mana Whenua.

The report will also provide a function for both Ambury Properties Limited and Mana Whenua in working party discussions over the lifetime of the proposed development, which includes cultural impact statements in future/upcoming resource consent applications.

The values and interests of Mana Whenua are outlined in the report and have been categorised into: Land; Water (Includes Lakes); Sites of Significance - Waahi Tapu/Tuupuna; Airspace; Wetlands; and Mana Whakahaere / Kaitiakitanga. Ultimately, the values and interests of Mana Whenua culminate around three fundamental factors:

1. To uphold, recognise and provide for the Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato;
2. That Mana Whenua (via the Tangata Whenua Working Party) continue to be active participants to enable the expression and exercise of Mana Whakahaere to protect and nurture the mauri of all living things and be active managers of the values and interests identified in the report (and any future reports); and
3. Opportunities to advance Mana Whenua social, economic, environmental and cultural aspirations, such as papakaainga housing, employment and enterprise within the Sleepyhead Estate, and environment enhancement/restoration activities.

Overall, Mana Whenua are encouraged by the opportunities that the Sleepyhead Estate development will bring to Ohinewai, and widely the Waikato region.

Additionally, Mana Whenua recognises the efforts of APL and their agents in their engagement and willingness to discuss and accommodate (through technical investigation) the initial concerns of Mana Whenua prior to the full development of this report.

Actions are recommended by Mana Whenua with the intent to support the statutory considerations of the values and interests identified and listed in the report, and their incorporation and integration in the objectives, policies and methods in the Proposed Waikato District Plan as it relates to the proposed Sleepyhead Estate development.

Additionally, the recommended actions also provide a suggested pathway to incorporate and integrate the values and interests of Mana Whenua in the purpose of the proposed Sleepyhead Estate development.

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# 1. Introduction

## 1.1 Purpose of Report

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- 1.1.1 On behalf of Mana Whenua in the Ohinewai catchment, Whetū Consultancy Group (Whetū) has been commissioned by Ambury Properties Limited (APL) to prepare a cultural values assessment report for the proposed Sleepyhead Estate development in Ohinewai, Waikato.
- 1.1.2 In collaboration with Mana Whenua, this Kaitiaki Environmental Values Assessment (KEVA) report is a cultural values assessment report to inform, and respond to, the initial submission and subsequent request to the Proposed Waikato District Plan to re-zone 178ha of land in Ohinewai for development.
- 1.1.3 In responding to the proposed Sleepyhead Estate development, Mana Whenua in the Ohinewai catchment are working together and represented by four organisations:
- a) Waahi Whaanui Trust,
  - b) Nga Muka Development
  - c) Te Riu o Waikato Trust, and
  - d) Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)
- 1.1.4 Information about each of these organisations is presented in section 3 of the KEVA report.
- 1.1.5 It is in the role as kaitiaki, which traverses (therefore is inclusive of) the environmental, economic, social and cultural well-beings, that the title/term “Kaitiaki Environmental Values Assessment” is used. This term correctly describes for Mana Whenua the interface and purpose for participation and the contribution of technical information and evidence provided to APL and subsequent presentation to the Waikato District Council.
- 1.1.6 The intent of the KEVA is twofold:
- 1.1.6.1 For APL (and its agents), the KEVA will identify the values, maatauranga (knowledge), interests and perspectives of Mana Whenua (iwi, hapuu, marae and whanau associated with the Ohinewai development area) to:

- a) inform the design of, and the proposed activities within, the Sleepyhead Estate,
- b) provide a technical report to accompany the Assessment of Environmental Effects report and Section 32AA Evaluation document dated December 2019, for the rezoning submission/request to the Proposed Waikato District Plan, and
- c) provide information and evidence on the values and interest of Mana Whenua in the Ohinewai catchment as it relates to the proposed Sleepyhead Estate development, as matters for consideration by the Waikato District Council in the review, recommendation and decision on the Proposed Waikato District Plan.

1.1.6.2 For Mana Whenua, the KEVA will:

- a) support participation in working party discussions over the lifetime of the proposed development, and the co-development of any measure(s) that seek to manage (avoid, remedy, mitigate and offset) any actual and potential impacts to the identified values, maatauranga (knowledge), interests and perspectives, and
- b) be a baseline report to inform cultural impact statements used by both Mana Whenua and APL in future/upcoming resource consent applications.

1.1.7 This report is not a Cultural Impact Assessment.

## 1.2 Structure of the Report

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1.2.1 There are five sections to the report

- **Section 1** - Introduction outlining purpose, development of KEVA report, and a summary understanding of the proposed Sleepyhead Estate Development
- **Section 2** - Resource Management Act and the statutory requirements to the interests and values of Maaori
- **Section 3** - Outlines the organisations representing the interests of Mana Whenua in Ohinewai
- **Section 4** - Provides the values and interests of Mana Whenua in Ohinewai

- **Section 5** - Recommended actions for the different agencies/organisation (including Mana Whenua) to progress the Mana Whenua values and interests as outlined in the report
- **Section 6** - Bibliography and References

### 1.3 Use of Double Vowels

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1.3.1 To respect the tikanga and kawa of Waikato-Tainui, which is inclusive of Mana Whenua in Ohinewai, the KEVA report uses double vowels instead of macrons in Maaori language. The exception to the use of double vowels in the KEVA report is where there is direct citation from referenced documents where either a macron or no macron has been used, or where it refers to an individual or a name of group/entity or document. In this case it is stated as is.

### 1.4 Methodology

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1.4.1 It is acknowledged by Mana Whenua that APL had sought to commission a Cultural Values/Impact Assessment report from Mana Whenua in 2019. However, the position of Mana Whenua at the time was to view all the information supporting the proposal in its entirety.

1.4.2 The information contained within the Assessment of Environmental Effects report and Section 32AA Evaluation document dated December 2019, for the rezoning submission/request to the Proposed Waikato District Plan, was viewed in January and February 2020.

1.4.3 The KEVA report was commissioned by APL in March 2020 for delivery by April 2020. The initial methodology to prepare the report was to:

- Perform literature review and small group meeting
- Waananga/workshop with kaumatua and marae/hapuu representatives

1.4.4 This methodology changed in response to the Covid-19 epidemic where there were requirements to limit group (small and large) meetings and then the eventual four week lockdown.

1.4.5 Primarily this KEVA report was prepared from existing Waikato-Tainui documents (includes legislation) as well as available kaitiaki environmental reports that were prepared for other development activities within the lower Waikato River catchment.



Also, the representatives (and kaitiaki) from each Mana Whenua organisation contributed and reviewed the initial and final drafts of the KEVA report.

## **1.5 Understanding of the Proposed Sleepyhead Estate Development**

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1.5.1 As stated earlier, the information contained within Bloxam Burnett & Olliver Assessment of Environmental Effects report and Section 32AA Evaluation document dated December 2019, for the rezoning submission/request to the Proposed Waikato District Plan, was viewed in January and February 2020.

1.5.2 The technical reports supporting the Bloxam Burnett Olliver Assessment of Environmental Effects report and Section 32AA Evaluation document were also viewed.

### **Scope of the Proposal**

1.5.3 The main components of the proposal:

- New Zealand Comfort Group to establish a consolidated factory development of 100,000m<sup>2</sup> with an associated rail siding.
- The development of other industrial activity that is able to take advantage of agglomeration benefits and the establishment of the rail siding.
- Commercial activity focused on factory outlets, a service centre, convenience retail and community services to support the Ohinewai community.
- Residential development to provide affordable housing for employees of NZCG and for housing that is available on the open market.

## 2. Kaitiaki Environmental Values in Resource Management Act

### 2.1. Resource Management Act 1991 and Interests and Values of Maaori

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2.1.1 The Resource Management Act 1991 (RMA) provides the statutory framework for assessment and decision-making on the sustainable management of Aotearoa New Zealand's natural and physical resources. Section 5(2) of the RMA describes sustainable management:

Section 5(2)

*In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

2.1.2 The RMA defines the environment as:

- ecosystems and their constituent parts, including people and communities; and
- all natural and physical resources; and
- amenity values; and
- the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

2.1.3 To support Section 5 of the RMA are Sections 6 - 8 which outlines a hierarchy of matters to assist the achievement of sustainable management with Aotearoa New Zealand's natural and physical resources. All matters described in sections 6 – 8 are relevant to Maaori as Tangata/Mana Whenua and as Kaitiaki.

2.1.4 For the purpose of the KEVA report, the content will provide information to support the assessment and decision-making on the following:

### Section 6 Matters of national importance

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) the protection of protected customary rights:*
- (h) the management of significant risks from natural hazards.*

### Section 7 Other matters

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

- (a) kaitiakitanga:*
  - (aa) the ethic of stewardship:*
- (b) the efficient use and development of natural and physical resources:*
- (c) the maintenance and enhancement of amenity values:*
- (d) intrinsic values of ecosystems:*
- (f) maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*
- (i) the effects of climate change:*

### Section 8 Treaty of Waitangi

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and*

*physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

2.1.5 For Mana Whenua, it is important that within the statutory framework for considering the values and interests of Mana Whenua in Part II of the RMA, that these values and interests are well-considered as part of APL's rezone request, and are subsequently integrated and incorporated in the recommendation and decision of Waikato District Council on the Proposed Waikato District Plan, as it relates to the rezone request.

2.1.6 With this outcome in mind:

- a) Section 2.2 of the KEVA report provides the characteristics and factors that describe the relationship of Maaori and their culture and traditions with the environment, to contextualise the information presented by Mana Whenua to section 6(e) of the RMA
- b) Section 2.3 provides guidance and specifics on kaitiakitanga and the role of kaitiaki to contextualise the information to section 7(e) of the RMA, and
- c) Section 2.4 profiles the principles of the Te Tiriti o Waitangi/Treaty of Waitangi to reinforce the interests and values of Mana Whenua with section 8 of the RMA.

2.1.7 Additional to the descriptions in section 2.2 – 2.4 is relevant case law identified with the intent to enhance the likelihood of the values and interests of Mana Whenua to be equally weighted alongside the other considerations in Part II of the RMA, as the content (information and evidence) is identifiable and relevant to statutory context.

## 2.2 Maaori Relationship (culture and traditions) with the Environment

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*“Culture pattern perceptions of reality into conceptualisations of what they perceive reality to be, of what to be regarded as actual, probable, possible and impossible.*

*These conceptualisations form what is termed ‘worldview’ of a culture. The worldview is the central systematisation of conceptions of reality to which members of its culture assent and from which stems their value system. The worldview lies at the very heart of the culture, touching, interacting with and strongly influencing every aspect of the culture.”<sup>1</sup>*

*Te Ahukaramū Charles Royal*

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<sup>1</sup> Royal, C.T (2003). *The woven Universe: Selected Writings of Rev. Māori Marsden*, at page 56.

- 2.2.1 Maaori perspectives of the world are based on the proposition that the environment is an interacting network of related elements, each having a relationship to the other and to earlier origins<sup>2</sup>.
- 2.2.2 Maatauranga Maaori is an integral element of understanding and engaging with and in the Maaori world (Te Ao Maaori). It spans Maaori knowledge, culture, values and worldview<sup>3</sup>, and is embedded in the relationships between people and natural resources, and the relationship between people and their bodies of knowledge as maatauranga Maaori is explained through kinship/whanaungatanga<sup>4</sup>.
- 2.2.3 Puuraakau (story telling around histories and mythology) and maramatanga/maramataka (Maaori lunar calendar) are forms of maatauranga Maaori, and comprise knowledge generated using methods and techniques consistent with scientific methods, but explained according to a Maaori worldview, often binding people, places and relationships<sup>5</sup>. Maatauranga Maaori gives expression to Maaori ways of doing, aspects of Maaori knowledge and Maaori worldview and is often aligned with aspirations<sup>6</sup>.
- 2.2.4 Illustrated in the karakia/incantation<sup>7</sup> below describes the interconnectedness between environs and people, and the personification of the earth and the sky as the parents Rangī and Papa, underlines the point by comparing the features of the environment to a family, and as a model for examining the connections and interdependencies which occur between forests and oceans<sup>8</sup> for example.

Ko Rangī  
*Ranginui – Sky Father*  
 Ko Papa  
*Papatuuaanuku – Earth Mother*  
 Ka puta Ko Rongo

<sup>2</sup> Durie, M. (1998). *Te Mana, Te Kāwanatanga: The Politics of Self Determination*. Oxford University Press: Wellington. At page 21.

<sup>3</sup> Hikuroa, D. (2018). *Mātauranga Māori - the ūkaipō of knowledge in New Zealand*.

<sup>4</sup> Tuatahi, T. (2011). *Ko Aotearoa tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity* (Waitangi Tribunal Report). At page 105. Retrieved from: [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_68356054/KoAotearoaTeneiTT1W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68356054/KoAotearoaTeneiTT1W.pdf)

<sup>5</sup> Smith, L.T., Maxwell, T., Haupai, P. & Pou T. (2016). Indigenous knowledge, methodology and mayhem: What is the role of methodology in producing indigenous insights? A discussion from Mātauranga Māori. *Knowledge Cultures*, 4(3), 131-145 at 2. Retrieved from <https://researchcommons.waikato.ac.nz/handle/10289/11493>

<sup>6</sup> Royal, T.A. (2012). Politics and knowledge: Kaupapa Māori and mātauranga Māori. *New Zealand Journal of Education Studied*, 47(2), 30-37. <https://search.informit-com-au.ezproxy.waikato.ac.nz/fullText;dn=446746674901479;res=IELHSS>

<sup>7</sup> Is “a” karakia that has many variations.

<sup>8</sup> Durie, M. (1998) at page 22.

*Gave birth to Rongomaataane – God/Kaitiaki of Peace and Cultivated Foods*

Ko Tanemaahuta

*Tanemaahuta – God/Kaitiaki of Forests and its Wildlife*

Ko Tangaroa

*Tangaroa – God/Kaitiaki over Sea and Fishlife*

Ko Tuumatauenga

*Tuumatauenga – God/Kaitiaki of conflict and human behaviour*

Ko Taawhirimaatea

*Taawhirimaatea – God/Kaitiaki of weather*

Ko Haumiatiketike

*Haumiatiketike – God/Kaitiaki over the uncultivated foods*

Tokona ra ko te rangi ki runga ko te papa ki raro

*Through the separation of Ranginui to the sky and of Papauuaanuku to the earth*

Ka puta te ira tangata, ki te whai ao ki te ao marama

*Humankind was birthed, from darkness (not knowing) to light (to being enlightened)*

Tihei Mauriora

- 2.2.5 The karakia/ incantation aims to explain that people are part of nature rather than superior to it, and that people exist in a state of balance with other elements without dominion over the natural environment. New Zealand’s landscape, and creatures within, therefore represents ancestors from whom people are descended.
- 2.2.6 The unique relationship and natural order is a basis of the Maaori worldview, and in context of Aotearoa New Zealand’s resource management regime, is key to understanding, identifying and applying the values and interests of Maaori when considering information and evidence on Maaori relationship, culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga, as well as their role as kaitiaki.

#### **Relevant Case Law - Ngaati Hokopu ki Hokowhitu v Whakatane District Council**

- 2.2.7 In the 2002 Environment Court decision for *Ngati Hokopu ki Hokowhitu v Whakatane District Council*<sup>9</sup>, the Court outlined that *assessments should be made within the*

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<sup>9</sup> *Ngati Hokopu ki Hokowhitu v Whakatane District Council (2002) 9 ELRNZ 111 (NZEnvC).*

*Maori world from where they came*<sup>10</sup>, and that *the meaning and sense of a Maori value should primarily be given by Maori*<sup>11</sup>.

2.2.8 Additionally, on section 6(e), the Court decision states that it *has to be careful not to impose inappropriate 'western concepts'* when it applies requirement to consider the relationship of Maaori with the natural environment.

2.2.9 The Court concluded that to understand Maaori values of the landscape and how it affects Maaori conduct, one must step deeply inside Maaori thinking. One must see the world through Maaori eyes, and assess Maaori values within a Maaori worldview<sup>12</sup>.

### 2.3 Kaitiakitanga and the role of Kaitiaki

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*“Kaitiakitanga means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship.”*

*Section 2(1) Resource Management Act 1991*

2.3.1 Durie<sup>13</sup> describes kaitiakitanga as the act of guardianship that requires clear lines of accountability to whaanau, hapuu and iwi and is more frequently associated with obligation rather than authority.

2.3.2 The Waitangi Tribunal report (2012)<sup>14</sup> shares the view regarding the above description, but extends that the description lacks the spiritual dimension that animates the concept and is a product of whanaungatanga, or the intergenerational obligation that arises by virtue of the kin relationship<sup>15</sup>. The Tribunal reports that it is not possible to have kaitiakitanga without whanaungatanga, and vice versa that whanaungatanga creates kaitiakitanga obligations.<sup>16</sup>

2.3.2 Kaitiakitanga is about upholding the care of the ancestors whom are manifested in the landscapes that Maaori live within.

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<sup>10</sup> *Ngati Hokopu ki Hokowhitu v Whakatane District Council* at 46 and 53.

<sup>11</sup> *Ngati Hokopu ki Hokowhitu v Whakatane District Council* at 53.

<sup>12</sup> *Ngati Hokopu ki Hokowhitu v Whakatane District Council*.

<sup>13</sup> Durie, M. (1998). *Te Mana, Te Kāwanatanga: The Politics of Self Determination*. Oxford University Press: Wellington. At page 5.

<sup>14</sup> Waitangi Tribunal. (2012). *The Stage 1 report on the national freshwater and geothermal resources claim: Wai 2358*. Section 2.7. Retrieved from: [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_59941926/Wai2358W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_59941926/Wai2358W.pdf)

<sup>15</sup> Waitangi Tribunal. (2012) at page 105.

<sup>16</sup> Waitangi Tribunal. (2012) at page 105.



- 2.3.3 In environmental terms, the Kaitiaki approach is holistic and provides for restoration of damaged ecological systems, restoration of ecological harmony, increased usefulness of resources, and reduced risk to present and future generations.<sup>17</sup>
- 2.3.4 The role of Kaitiaki is to balance human need with the preservation of the resource and the protection of mauri (the life principle or living essence contained in all things), therefore acting as both benefactor and beneficiary<sup>18</sup>. The role is considerably more significant than simply that of a guardian or steward. It is a vital component in the spiritual and cultural relationship of tangata whenua with their land<sup>19</sup>.

### Relevant Case Law - Tūwharetoa Māori Trust Board v Waikato Regional Council

- 2.3.5 The 2018 Environment Court decision *Tūwharetoa Māori Trust Board v Waikato Regional Council NZEnvC 93*, the Court did not think that ownership was determinative of how it must have regard to kaitiakitanga (section 7(a) of the RMA) and the principles of the Treaty of Waitangi, and found that the association of Maaori (in this case Ngaati Tuuwharetoa) with land affected by the applications will result in adverse cultural effects.

## 2.4 Treaty of Waitangi/Te Tiriti o Waitangi

*“There can be no doubt that the Treaty is part of the fabric on New Zealand society. It follows that it is part of the context in which legislation which impinges upon its principles is to be interpreted when it is proper, in accordance wot the principles of statutory interpretation to have resort to extrinsic material.”*

*Huakina Development Trust v Waikato Valley Authority 1987*

- 2.4.1 The Treaty of Waitangi/Te Tiriti o Waitangi (Te Tiriti) is of constitutional importance to Aotearoa New Zealand as it recognises Maaori indigeneity and forms the basis of a partnership for past and ongoing relationships between Maaori and the Crown.
- 2.4.2 Te Tiriti is also the underlying foundation for Crown and iwi/hapuu relations with regard to resource management.

<sup>17</sup> Matunga, H. P. (1994). *The Resource Management Act 1991 and Māori Perspectives*. Centre for Māori Studies and Research, Lincoln University.

<sup>18</sup> Hayes, S. (1998). ‘Defining Kaitiakitanga and the Resource Management Act 1991’, in *Auckland University Law Review* (Vol 8 1996-1999) at page 893.

<sup>19</sup> Hayes, S. (1998) at page 898.



- 2.4.3 Protecting the values and interests of tangata whenua and enabling Maaori to exercise resource management are obligations under the Treaty.
- 2.4.4 Te Tiriti recognises the right of Maaori to plan for and manage their environment. This makes Te Tiriti the principal reference point for all natural resource decision-making. The principles considered important in resource management and legislative interpretation include:
- The principle of partnership (rangatiratanga and kaawanatanga)
  - The principle of active protection and equity (of Maaori interests), and
  - The principle of redress (addressing past wrongs)
- 2.4.5 The principle of partnership is the overarching tenet for Te Tiriti, and can be viewed as “the obligation to act reasonably, in utmost good faith and in a manner that is consistent with partnership”, which includes reciprocity and mutual benefit.
- 2.4.6 The principles of active protection and equity arise from Article 3 of Te Tiriti, which guaranteed all Maaori the protection of the Crown and therefore can be viewed as actively protecting the values and interests of Maaori.
- 2.4.7 The principle of redress can be viewed as “the obligation on the Crown to not unduly impede or diminish its capacity to provide redress where a valid grievance is established”. It is viewed that the joint management agreement between Waikato-Tainui and the Waikato District Council is an intent to provide for Maaori in the duties, functions and exercise of power it performs under various legislation.

### 3. Mana Whenua

#### 3.1 Waikato-Tainui

3.1.1 Waikato-Tainui is a collective of 33 Hapuu, 68 Raupatu Marae, and 72,000 registered members. Below is an illustration from the Waikato-Tainui Environmental Management Plan detailing the location of these 68 Marae.



3.1.2 A formulaic expression or saying to identify as Waikato-Tainui is:

Ko Tainui te waka

*Tainui is the waka*

Ko Taupiri te maunga

*Taupiri is the mountain*

Ko Waikato te awa

*Waikato is the river*

Ko Pootatau Te Wherowhero te tangata

*Pootatau Te Wherowhero is the chief*

Ko Waikato te iwi

*Waikato the tribe*

He piko he taniwha

*At every bend of the Waikato is a Chief*

Waikato Taniwharau

*Waikato of a hundred chiefs*

- 3.1.3 Additionally, to inform on the area that encapsulates the region/rohe (and interests) of Waikato-Tainui, the following would be said:

Mookau ki runga; Taamaki ki raro  
*Mookau (near Awakino) to the top, Taamaki Makaurau (Auckland) to the bottom*  
Pare Hauraki, Pare Waikato  
*The boundaries of Hauraki<sup>20</sup>, the boundaries of Waikato<sup>21</sup>*  
Ko Mangatoatoa ki waenganui  
*To Mangatoatoa<sup>22</sup> that resides in between*  
Te Kaokaoroa o Paatetere  
*To the place called 'the long armpit of Paatetere'*

- 3.1.4 To describe and express adoration of the landscape and natural resources in the Waikato-Tainui catchment, the maimai aroha or lament of Kiingi Taawhiao (second Maaori King) that was formulated in 1863 is used.

The maimai aroha/lament is also the vision of, and overarching purpose for, the Waikato-Tainui Environmental Management Plan Tai Tumu Tai Pari Tai Ao.

Ka maatakitaki iho au ki te riu o Waikato  
*I look down on the valley of Waikato*  
Anoo nei he kapo kau ake maaku ki te kapu o taku ringa  
*As though to hold it in the hollow of my hand*  
Ka whakamiri noa i toona aratau  
*And caress its beauty*  
E tia nei he tupu kua hou  
*Like some tender verdant thing*  
Kia hiwa ake ki te tihi o Pirongia  
*I reach out from the top of Pirongia*  
Inaa he toronga whakaruruhau moona ki tooku tauaawhiritanga  
*As though to cover and protect its substance with my own*  
Anaa! Te ngoto o toona ngaawaa i oona uma kiihai i aarika  
*See, how it bursts through, the full bosoms*  
a Maungatautari, a Maungakawa

<sup>20</sup> Pare Hauraki is the Hauraki region including the Piako, Ohinemuri and Coromandel districts.

<sup>21</sup> Pare Waikato is the regional north of Kaawhia to the Manukau Harbour and across to the Huuna and Hapuuakohe Range. Hence the Waikato region today includes cities and towns such as Te Awamutu, Cambridge, Hamilton and Huntly.

<sup>22</sup> Mangatoatoa is a small village south of Te Awamutu.

*of Maungatautari and Maungakawa*  
ooku puke maunga, ngaa taonga tuku iho.

*Hills of my inheritance*

Hoki ake nei au ki tooku awa koiora me oona pikonga

*The river of life, each curve more beautiful*

He kura tangihia o te maataamuri

*than the last.*

E whakawhiti atu ai i te koopuu maania o Kirikiriroa

*Across the smooth belly of Kirikiriroa*

Me oona maara kai, te ngaawhaa whakatupu ake o te whenua moomona

*Its gardens bursting with the fullness of good things.*

Hei kawē ki Ngaaruawaahia, te huinga o te tangata

*Towards the meeting place at Ngaaruawaahia*

Ataa, te pae haumako hei okiokinga moo taku upoko

*There on the fertile mound I would rest my head*

Hei tirohanga atu maa raro i ngaa huuhaa o Taupiri

*and look through the thighs of Taupiri*

Kei reira raa, kei te oorokohanganga o te tangata

*There at the place of all creation*

Waahia te tuungaroa o te whare, te whakaputanga moo te Kiingi.

*Let the King come forth.*

- 3.1.5 In the Waikato-Tainui Environmental Management Plan it is outlined that:  
*“Waikato-Tainui” means people who descend from or affiliate to a recognised Waikato-Tainui whaanau, marae, hapuu, or iwi. A person is recognised as being affiliated to a Waikato-Tainui marae, hapuu, or iwi only if that marae, hapuu, or iwi recognises that affiliation. ‘Waikato-Tainui’ also, where the context allows, includes the various organisations or bodies that Waikato-Tainui establishes to manage the individual and collective affairs of Waikato-Tainui. This includes, but is not limited to committees, trusts, or other organisations for marae, hapuu, management committees, clusters of the same, the relevant iwi authority or its delegated body, and other structures that, from time to time, Waikato-Tainui people may establish to consider matters of relevance under this Plan.”<sup>23</sup>*

<sup>23</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 13.

3.1.6 The organisations representing Waikato-Tainui are:

- Te Whakakitenga o Waikato Incorporated
- Waikato Raupatu Lands Trust
- Waikato Raupatu River Trust
- Waikato-Tainui College for Research and Development, and
- Tainui Group Holdings

3.1.7 Te Whakakitenga o Waikato Incorporated is the post-settlement governance entity for the Waikato iwi, consisting of 68 marae and 33 hapuu, and managing assets for the benefit of over 72,000 registered tribal members. Te Whakakitenga o Waikato is recognised as a kaitiaki of its environment and views the holistic integrated management of all elements of the environment such as flora and fauna, land, air and water as of utmost importance.

To support Te Whakakitenga o Waikato in representing the people of Waikato-Tainui is Te Arataura, the executive body that is made up of representatives from elected members of Te Whakakitenga o Waikato and the *Kaahui Ariki* representative.

The Waikato Raupatu Lands Trust was established as part of the 1995 Waikato-Tainui Settlement, and the Waikato Raupatu River Trust was established as a result of the 2008 Waikato River Settlement. The Waikato Raupatu Lands Trust and the Waikato Raupatu River Trust operate as one entity to manage the affairs of Waikato-Tainui and the implementation of strategies and plans to advance Waikato-Tainui and the integrity of the tribal settlements and ongoing claims.

The Waikato-Tainui College for Research and Development (College), and Tainui Group Holdings were established following the 1995 Waikato-Tainui settlement. The College is the international centre of excellence which aims to provide quality postgraduate study and research to strengthen iwi development, produce future leaders and support indigenous development. Tainui Group Holdings (TGH) is the commercial operations arm for Waikato-Tainui. A property investment and development company, TGH operates diversified investment portfolio including retail, residential, commercial, industrial and rural properties. TGH also manages Waikato-Tainui Fisheries Ltd, which owns and leases fishing quota and holds shares in Aotearoa Fisheries Limited.

## 3.2 Marae/Hapuu/Organisations of Te Riu o Waikato

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*Ka maatakitaki iho au ki te riu o Waikato – Kiingi Taawhiao*

*I look down on the valley of Waikato – Kiingi Taawhiao*

3.2.1 The Ohinewai catchment is located in the valley of Waikato (Te Riu o Waikato) where there are 15 Waikato-Tainui marae. These marae are:

• Ookarea Marae	• Waikare Marae	• Te Kauri Marae
• Taniwha-Tangoao Marae	• Horahora Marae	• Waahi Paa
• Waiti Marae	• Maurea Marae	• Taupiri Marae
• Te Hoe-o-Tainui Marae	• Te Oohaakii Marae	• Tuurangawaewae Marae
• Matahuru Papakaainga	• Kaitumutumu Marae	• Waikeri-Tangirau Marae

3.2.2 Although a number of the identified marae are not directly in Ohinewai, or wider in the Ohinewai catchment, the 15 marae are connected by whakapapa (genealogy and lineage) and/or shared values and interest in the landscape and natural resources within the immediate environment.

3.2.3 These marae are represented in various manners, whether in whanau or hapuu structures, or in more contemporary structures such as iwi management groups/organisations. In a hapuu structure, the 15 marae are represented by either one (or more) of the following hapuu:

- |                    |                     |                    |
|--------------------|---------------------|--------------------|
| • Ngaati Mahuta    | • Ngaati Tai        | • Ngaati Hine      |
| • Ngaati Te Wehi   | • Ngaati Whaawhakia | • Ngaati Pou       |
| • Ngaati Kuaarangi | • Ngaati Naho       | • Ngaati Makirangi |

3.2.4 In a contemporary structure, the 15 marae (and associated hapuu) are represented by either one (or more) of the following organisations, especially in resource and environmental management processes and activities:

- Waahi Whaanau Trust
- Nga Muka Development Trust
- Te Riu o Waikato Limited, and
- Te Whakakitenga o Waikato Incorporated – Waikato-Tainui

These four organisations have actively been engaged with APL in the proposal.

### **Waahi Whaanui Trust**

3.2.5 Waahi Whaanui Trust represents hapuu/marae/whanau within the Huntly/Ohinewai area and forms part of the wider network of the tribe of Waikato-Tainui. The Trust was established in 1983 as part of an initiative of the Tainui Maaori Trust Board and became an Incorporated Charitable Trust in 1987. This provided the mechanism for Waahi Whaanui Trust to fulfil responsibilities of kaitiakitanga ensuring the protection of our natural resources and working with Central and Local Government to provide Health, Social, Education and Employment services for whanau and hapuu also extending to the wider community.

### **Nga Muka Development Trust**

3.2.6 The Nga Muka Development Trust is the representative body for the cluster of five marae under the Waikato-Tainui tribal structure. Nga Muka Development Trust encompasses the area from Rangiriri in the west across the northern boundary of Lake Waikare to the Waiterimu valley. The marae are Maurea, Horahora, Waikare, Ookarea, Taniwha-Tangoao, and the principle hapuu of those marae are Ngaati Pou, Ngaati Naho, Ngaati Hine, Ngaati Mahuta.

### **Te Riu o Waikato Trust**

3.2.7 Te Riu O Waikato Limited is a mandated company of Te Whakakitenga o Waikato Incorporated. With a cluster of 15 marae and over 16,500 beneficiaries their purpose is to build and accelerate economic prosperity. The focus is on creating economic prosperity to develop the social fabric of Waikato-Tainui whaanau, hapuu, marae and iwi.

## **3.3 Kiingitanga**

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3.3.1 The Kiingitanga is the unifying korowai of Maaori that was established in 1858 to unite all tribes under the leadership of Pootatau Te Wherowhero.

Waikato-Tainui are responsible for upholding the mana of the Kiingitanga.

## **3.4 Key Legislation and Tribal Documents**

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Important to the mana whenua context, is key legislation and Waikato-Tainui tribal documents.

### **Waikato Raupatu Claims Settlement Act 1995**

3.4.1 In 1987 a claim was filed with the Waitangi Tribunal concerning Crown actions in relation to the Waikato Claim Area, and other matters. The claim was registered with the Waitangi Tribunal as Wai 30. The resulting Wai 30 claim dealing with raupatu,



was the subject of petitions to the Crown since 1865 and direct negotiations with the Crown since 1989.<sup>24</sup>

The Crown acknowledged that grave injustices were done to Waikato when the Crown, in breach of the Treaty of Waitangi, sent its forces into the Waikato, occupied and subsequently confiscated Waikato land, and unfairly labelled Waikato as rebels<sup>25</sup>. The settlement records the apology and recognises the significance of the “land for land” principle to Waikato<sup>26</sup>.

### **Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010**

3.4.2 As part of the 1995 Settlement, it was agreed that the claim for the Waikato River be excluded, however the Crown acknowledged in the 1995 Settlement Act that:

- Waikato's claim to the Waikato River arises as a result of the raupatu;
- Waikato have a special relationship with the Waikato River since the Waikato River is the ancestor of Waikato and the water is the life blood of the ancestor;
- The Waikato River determines the identity and wellbeing of Waikato and their rangatiratanga over the Waikato River is confirmed by the Treaty of Waitangi;
- For Waikato the Waikato River means "the Waikato River from the Huka Falls to the mouth and includes its waters, banks and beds (and all minerals under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation and floodplains as well as its metaphysical being";
- One of the issues which Waikato will raise in their claim relating to the Waikato River to the Waitangi Tribunal is the issue that the creation of the marginal strips by the Crown has divorced and continues to divorce Waikato further from the Waikato River and is inconsistent with the Treaty of Waitangi and Waikato will be claiming the marginal strips as part of their claim to the Waikato River;
- This Deed will not affect any claims, rights and interests of Waikato in their relationship with the Waikato River."<sup>27</sup>

Waikato-Tainui through negotiations sought a settlement that acknowledges and respects the deeply felt obligations of Waikato-Tainui to protect, recognise and sustain the special relationship Waikato-Tainui have with the Waikato River and its catchment. On 17 December 2009, the final Deed of Settlement for the Waikato

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<sup>24</sup> Waikato Raupatu Claims Settlement Act 1995, Preamble at J. <http://www.legislation.govt.nz/act/public/1995/0058/latest/DLM369896.html>

<sup>25</sup> Waikato Raupatu Claims Settlement Act 1995, Preamble at R. <http://www.legislation.govt.nz/act/public/1995/0058/latest/DLM369896.html>

<sup>26</sup> Waikato Raupatu Claims Settlement Act 1995, Preamble at S. <http://www.legislation.govt.nz/act/public/1995/0058/latest/DLM369896.html>

<sup>27</sup> 1995 Deed of Settlement, at page 31. <https://www.govt.nz/assets/Documents/OTS/Waikato-Tainui-Raupatu/Waikato-Tainui-Deed-of-Settlement-22-May-1995.pdf>



River was signed with the overarching purpose of the settlement being ‘*to restore and protect the health and wellbeing of the Waikato River for future generations*’.

In 2010, the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 came into force enacting into legislation the agreements expressed in the Deed of Settlement and the *Kiingitanga* Accord. The purpose<sup>28</sup> of the Settlement Act is stated as:

- give effect to the settlement of raupatu claims under the 2009 Deed of Settlement;
- recognise the significance of the Waikato River to Waikato-Tainui;
- recognise the Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato;
- establish and grant functions and powers to the Waikato River Authority;
- establish the Waikato River Clean-up Trust;
- recognise certain customary activities of Waikato-Tainui;
- provide co-management arrangements for the Waikato River;
- provide redress to Waikato-Tainui relating to certain assets; and
- recognise redress to Waikato-Tainui under the Kiingitanga Accord and other accords provided for in the schedule of the Kiingitanga Accord.

### **Vision and Strategy for the Waikato River / Te Ture Whaimana o Te Awa o Waikato**

3.4.3 With the Waikato-Tainui Claims (Waikato River) Settlement Act 2010 brought into force, the Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato (hereon Vision and Strategy/Te Ture Whaimana) was given immediate legal effect. Complementary to this was the establishment of the Waikato River Authority and their prescribed exercise of power, functions and duties to support the implementation of the Vision and Strategy/Te Ture Whaimana.

The Vision and Strategy/Te Ture Whaimana, recognises, and responds to, four fundamental issues for the Waikato River:

1. The degradation of the Waikato River and its catchment has severely compromised Waikato River iwi in their ability to exercise mana whakahaere or conduct their tikanga and kawa;
2. Over time, human activities along the Waikato River and land uses through its catchments have degraded the Waikato River and reduced the relationships and aspirations of communities with the Waikato River;

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<sup>28</sup> Section 4 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

3. The natural processes of the Waikato River have been altered over time by physical intervention, land use and subsurface hydrological changes. The cumulative effects of these uses have degraded the Waikato River; and
4. It will take commitment and time to restore and protect the health and wellbeing of the Waikato River.<sup>29</sup>

The vision statement of the Vision and Strategy/Te Ture Whaimana *Tooku awa koiora me oona pikonga he kura tangihia o te maataamuri - The river of life, each curve more beautiful than the last*

As an instrument of the Waikato-Tainui Waikato River Settlement, it is the primary direction setting document for the Waikato River to restore and protect the health and wellbeing of the Waikato River for future generations.

### **Whakaturanga Waikato-Tainui 2050**

- 3.4.4 Whakatupuranga 2050 is a 50 year strategic plan and the blueprint for Waikato-Tainui to advance the cultural, social, and economic aspirations of the tribe.

### **Waikato-Tainui Environmental Management Plan Tai Tumu Tai Pari Tai Ao**

- 3.4.5 The Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao ('EMP') was prepared by the Waikato Raupatu River Trust in consultation with Waikato-Tainui Marae. The EMP is a comprehensive document with the overarching purpose to provide a map or pathway that intends to return the Waikato-Tainui rohe to the modern-day equivalent of the environmental state that it was in when Kiingi Taawhiao composed his maimai aroha. The EMP represents the Waikato-Tainui environmental planning document that has statutory recognition and planning status for the purpose of the Resource Management Act 1991 under section 35A.

The EMP is intended as a tool that is a living, evolving working document to provide clear high-level guidance on Waikato-Tainui objectives and policies with respect to the environment, to resource managers, users and activity operators, and those regulating such activities, within the Waikato-Tainui rohe.

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<sup>29</sup> Waikato River Authority, Vision and Strategy for the Waikato River. <https://waikatoriver.org.nz/wp-content/uploads/2019/03/Vision-and-Strategy-Reprint-2019web.pdf>

## 4. The Values and Interests of Mana Whenua

### 4.1 Land

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4.1.1 There are two core values and interests in land:

- A. Waikato-Tainui Identity and the Role as Kaitiaki, and
- B. Loss and Return of Land

#### A. Waikato-Tainui Identity and the Role as Kaitiaki

Ko Taupiri te maunga

*Taupiri is the mountain*

Ko Waikato te awa

*Waikato is the river*

Ko Pootatau Te Wherowhero te tangata

*Pootatau Te Wherowhero is the chief*

4.1.2 Expressed in the above pepeha/saying, the land/whenua (and rivers, lakes and waterways) states the sense of belonging and describes the living embodiments to the identity of Waikato-Tainui<sup>30</sup> tribal members.

4.1.3 This is further refined by Mana Whenua in the Ohinewai catchment to be precise in localising their relationship and practice of culture and traditions.

4.1.4 As kaitiaki, the exercise of guardianship by Mana Whenua in the Ohinewai catchment, and land contained (and land use activities undertaken) within the lower Waikato River catchment area, is in accordance with tikanga Maaori and maatauranga Maaori.

4.1.5 The Waikato-Tainui Environmental Management Plan (WTEMP) informs that “*all land has mauri and has value to Waikato-Tainui. The mauri of the land has been adversely affected by historical and current use.*”<sup>31</sup>

4.1.6 Furthermore, that over subsequent generations,

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<sup>30</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 72 (Point 10.3.2.1), and Page 4, Whakatapuranga Waikato-Tainui 2050.

<sup>31</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao at page 174 (Point 21.1.7).

*“...land in the Waikato-Tainui rohe has been drained and developed for a number of uses. Land development has dramatically reduced the area of native forest and wetlands throughout the region and pastoral farming, exotic forestry, industrial and urban development is now the main productive land uses.*

*This reduction in native ecosystems and changing land use has consequently affected the natural ecosystem balance.....Attempts to control natural processes have further impacted on the natural ecosystem balance. For example, attempts to control flooding, which occurs naturally and contributes to ecosystem balance, has exacerbated habitat decline, particularly when waters are further contaminated from other land use activities or have a higher than natural sediment loading.*

*Of particular concern to Waikato-Tainui is the degradation that has occurred in soil quality caused by unsustainable land use practices (such as some agricultural and horticultural practices). Poor soil increases the risk of erosion and nutrients leaching into water bodies, thereby further degrading water quality, adversely affecting the health of the river with a subsequent loss of cultural and other Waikato-Tainui uses.*

*The ability to access and effectively utilise land is intrinsically linked to the ability of Waikato-Tainui to provide for the environmental, social, spiritual, cultural, and economic health and wellbeing of Waikato-Tainui. Land can have distinct or, at times, overlapping values depending on the use of the land. For example, land set aside as an urupaa (burial site) has a different environmental, social, spiritual, cultural, and economic value than land set aside for Waikato-Tainui economic initiatives.”*

- 4.1.7 In the Ohinewai catchment, land development has cleared the native forest that was once on the property<sup>32</sup> and wider catchment area, through deforestation for pastoral farming, and with it, soil erosion and land contamination have occurred.

Additionally, the construction of flood protection and drainage works to prevent periodic flooding of natural flood plains has limited the natural process in the Ohinewai catchment to replenish soils, whilst also dramatically reducing the ecological functioning of wetlands (and habitat available for the plant and animal life within) and the Rotokawau and Waikare Lakes, and the Whangamarino wetlands. This has consequently affected the once prolific native fauna and flora, such as birds and fish species, in the Ohinewai catchment. The catchment has suffered habitat loss.

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<sup>32</sup> Gainsford, M., and Gumbly, W. (2019) Archaeological Assessment for Ambury Properties Limited Ohinewai at page 9.

4.1.8 Mana Whenua seek to restore the mauri of the land (and lakes) in balance with achieving the environmental, social, cultural, spiritual and economic aspirations of Waikato-Tainui by (but not limited to):

1. Retiring marginal lands from unsustainable land uses,
2. Avoiding further clearance/degradation of indigenous vegetation and disturbance of land prone to heavy erosion,
3. Protect water-bodies from erosion and sediment, and any contaminants,
4. Planting indigenous vegetation, and if possible, locally sourced indigenous vegetation are preferred,
5. Continued, and/or enhanced, access to traditional areas for customary and cultural activities,
6. Management measures and practices to protect and preserve taonga, cultural/customary practices, and sites and activities of significance to Mana Whenua,
7. That the development seeks to restore the capacity of the local ecosystem, especially ecosystems that function without human intervention:
  - a. By incorporating in the design of the development, the inclusion of an area of land/wetland (e.g constructed wetlands) towards the restoration of taonga, and
  - b. Financially supporting projects that seek to restore taonga in the immediate vicinity of the development area, and
  - c. The prevention and/or mitigation of potential contaminants in run-off water from impervious surfaces (paved areas), reaching open water bodies (drains, streams etc)
8. In the design processes for the Sleepyhead Estate, weaving Mana Whenua narratives and values (maatauranga Maaori) into the development will enhance and deepen the sense of place/identity and connectivity between people and place.

## **B. Loss and Return of Land**

I riro whenua atu, me hoki whenua mai

*As land was taken, so land must be returned*

4.1.9 It is acknowledged by Mana Whenua that neither APL, nor New Zealand Comfort Group, are Crown bodies, nor are they companies owned by Crown entities. However it is important that this Mana Whenua value and interest in land is stated, acknowledged, and where possible, provided for as part of this proposal.

4.1.10 In 1863 – 1864 the Crown engaged in a war against Maaori in the Waikato, first in the valley of Waikato (Te Riu o Waikato) causing suffering to the people. After the war in Waikato the crown unjustly confiscated large areas of land. This confiscation or raupatu has, over time, had a crippling impact on the welfare, economy and mana whakahaere of Waikato-Tainui and the ability to manage the lands, awa and resources within the tribal rohe. Though raupatu did not change the beliefs and values of Waikato-Tainui, nor the unique relationship with the whenua and awa, its impact on the mana whakahaere exercised by the tribe was immediate.

In 1989 the Crown and Waikato entered into direct negotiations in which Waikato pursued compensation on the basis of their long established principles of “land for land” — “i riro whenua atu, me hoki whenua mai” (“as land was taken, land must be returned”) and “ko te moni hei utu moo te hara” (“the money is the acknowledgment by the Crown of their crime”)<sup>33</sup>. The Crown settlement redress included the return of some lands, payment of monies and a right of first refusal (RFR) over the residual Crown lands.<sup>34</sup> This RFR mechanism compels Crown owned lands to be offered to Waikato-Tainui first for purchase before offered to the open market.

4.1.11 This core value and interest in land resulted from an injustice where land was occupied and subsequently confiscated, and the search for restitution by mana whenua in full knowledge that only a small proportion of the land was left. The intent of the RFR mechanism is to provide Waikato-Tainui with the real opportunity to reclaim the 1.2 million acres lost as a result of raupatu.<sup>35</sup>

4.1.12 Growing a prosperous iwi from this basis of displacement and expropriation, as well as limitations and constraints for Maaori Freehold Land, going forward requires innovation, and more importantly, partnerships.

4.1.13 Considering this, in addition to the measures outlined in section 4.1.8, Mana Whenua wish to engage with APL to discuss opportunities in:

1. Providing for papakaainga housing within the identified residential housing precinct of the Sleepyhead Estate development,
2. The employment of local people (particular Maaori), and business and cultural enterprise, within the Sleepyhead Estate development, and

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<sup>33</sup> Waikato Raupatu Claims Settlement Act 1995, Preamble at O.

<http://www.legislation.govt.nz/act/public/1995/0058/latest/DLM369896.html>

<sup>34</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 90 (Point 12.1.4).

<sup>35</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 91 (Point 12.1.5).



3. Reclaiming any residue and developed land within the Sleepyhead Estate development by establishing a RFR mechanism between Mana Whenua and APL (or the New Zealand Comfort Group) before lands are offered to the open market.

## 4.2 Water (includes Lakes)

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*“Noo taatou te awa. Noo te awa taatou. E kore e taea te wehe te iwi o Waikato me te awa. He taonga tuku iho naa ngaa tuupuna. E whakapono ana maatou ko taa maatou, he tiaki i taua taonga moo ngaa uri whakatupu.”*

*Sir Robert Te Kotahi Mahuta*

*The River belongs to us just as we belong to the River. The Waikato tribe and the River are inseparable. It is a gift left to us by our ancestors and we believe we have a duty to protect that gift for future generations.*

- 4.2.1 The overarching value and interest in water is the recognition, and enhancement, of the relationship between Waikato-Tainui and its water-bodies, especially the Waikato River, but also the Whangamarino Wetlands and the riverine lakes in the lower Waikato River catchment. These lakes in proximity to the development area (as well as being culturally connected) are:

- Lake Waikare
- Lake Kopuera
- Lake Rotokawau
- Lake Ohinewai
- Lake Kimihia
- Lake Hakanoa
- Lake Whangape
- Lake Rotongaro
- Lake Rotongaroiti
- Lake Okowhao
- Lake Waahi

- 4.2.2 Historically, through tikanga and kawa, Waikato-Tainui learned how to manage water-bodies to ensure their capacity maintained mauri and to sustain the tribe. Over many generations, successive governments, and the development of plans and policies that dictate the management of all water bodies, the ability of Waikato-Tainui to actively manage its waters diminished<sup>36</sup> and was effectively removed.

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<sup>36</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 150 (Point 19.3.2).

4.2.3 The Waikato River settlement sought to enhance the recognition of the relationship between Waikato-Tainui and the Waikato River and its catchment<sup>37</sup>. A key principle is Te Mana o Te Awa.

#### **A. Principle of Te Mana o Te Awa**

4.2.4 Through the Deed of Settlement, the Crown recognises the relationship Waikato-Tainui have with the Waikato River and their responsibilities to protect the mana and mauri of the Waikato River. Clause 2.41 of the Deed of Settlement<sup>38</sup> state that to:

*“...Waikato-Tainui, the Waikato River is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. The River has its own mauri, its own spiritual energy, its own powerful identity. It is a single indivisible being”*

4.2.5 Clauses 2.42 additionally outlines that:

*“Respect for Te Mana o Te Awa is at the heart of the relationship between the tribe and the Waikato River. Waikato-Tainui regard the River with reverence and love. It gave them their name and is the source of their tribal identity. Over generations, Waikato-Tainui have developed tikanga (values, ethics, governing conduct) which embody their profound respect for the Waikato River and all life within it. The Waikato River sustains the people physically and spiritually. It brings them peace in times of stress, relief from illness and pain, and cleanses and purifies their bodies and souls from the many problems that surround them. Spiritually, to Waikato-Tainui, the Waikato River is constant, enduring and perpetual.”*

#### **B. Ecological Integrity and Life-Supporting Capacity of Riverine Lakes in the Lower Waikato River Catchment**

4.2.6 Ecological integrity<sup>39</sup> concerns the state of the combined ecosystems of the Waikato River catchment (includes flood plains), their connections and the degree to which ecosystems have been altered from their natural state<sup>40</sup>.

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<sup>37</sup> The Waikato River catchment is defined as the body of water known as the Waikato River flowing continuously or intermittently from the Huka Falls to the mouth of the Waikato River, all tributaries, streams, and watercourses flowing into the part of the Waikato River, and lakes and wetlands and the beds and banks of the water bodies.

<sup>38</sup> Deed of Settlement in relation to the Waikato River (2009).

<sup>39</sup> Term used in the Waikato River Independent Scoping Study <https://www.mfe.govt.nz/sites/default/files/wriss-final-report.pdf>

<sup>40</sup> Waikato River Independent Scoping Study (2010), at page 80.



- 4.2.7 The key concerns for Mana Whenua have been the mismanagement (over generations) of the lower Waikato River catchment area, to the point where the health and wellbeing of the riverine lakes is poor.
- 4.2.8 For Mana Whenua, the introduction of stop banks, culverts, floodgates, and pumping stations have reduced wetland function of the natural floodplain habitat<sup>41</sup>. Additionally, nutrient inputs from diffuse sources have degraded water quality, and invasive plants and exotic fish species, specifically koi carp, have posed a substantial threat to aquatic ecosystems in the Waikato River and the riverine lakes<sup>42</sup> particularly since the construction and implementation of the Lower Waikato Flood Control Scheme in 1965.
- 4.2.9 Overall, it is in the recognition and enhancement of the relationship between Waikato-Tainui and the Waikato River, its flood plains, and the shallow riverine lakes that Mana Whenua in Ohinewai seek to uphold the legislative directives under the Waikato River settlement, and:
1. Protection of water-bodies (river, lakes, wetlands, streams/tributaries), from the negative impacts of land use (includes agricultural, residential/commercial and industrial development),
  2. The eradication, control and management of introduced flora and fauna species that have proven to be harmful to the health of people, air, land and water bodies, with special emphasis on koi carp and other noxious pests,
  3. Aspire for improvements in the quality of water (and state of water-bodies) in the lower Waikato River catchment to drinkable, swimmable and fishable standard,
  4. Continued, and/or enhanced, access to traditional areas for customary and cultural activities,
  5. Seek support to restore wetlands and water-bodies in the lower Waikato River catchment that are unable to properly sustain life, and
  6. Management measures and practices to protect and preserve:
    - (a) taonga, cultural/customary practices, and concealed kooiwi of Waikato-Tainui tupuna/ancestors, in wetlands.
    - (b) sites and activities of significance to Mana Whenua

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<sup>41</sup> Waikato River Independent Scoping Study (2010), at page 80.

<sup>42</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 111 (Point 15.2.8).

7. Consider beneficial re-use and on-site management of stormwater and wastewater

### 4.3 Sites of Significance and Waahi Tapu/Tuupuna

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- 4.3.1 To Mana Whenua, waahi tapu means those sites of significance that are highly prized. They are areas (lands, waters and space) which exhibit cultural importance, historical importance, tribal importance or archaeological importance<sup>43</sup>.
- 4.3.2 Within the Ohinewai catchment, there are areas that are significant to Mana Whenua. These areas are associated with:
- The once flourishing communities and activities around Lake Waikare and the Waikato River
  - Communities and activities around Lake Ohinewai and Lake Rotokawau (and tributaries eg Matahuru Stream)
  - The Battle at Rangiriri (and the retreating route from Rangiriri via repo (wetlands), roto (lakes) and awa (river))
  - Urupaa and location of kooiwi<sup>44</sup> (bones)
- 4.3.3 Some of these sites in the Ohinewai catchment are identified and registered as archaeological sites, and it is noted that the archaeologist commissioned by APL, Warren Gumbley, had reported that in proximity of the development area are registered archaeological Maaori sites<sup>45</sup>.
- 4.3.4 The concern of Mana Whenua is that once the sites are altered or lost, they cannot be replaced and the view is that there is no mitigation that can restore its original significance.
- 4.3.5 Therefore the search for Mana Whenua is to protect waahi tapu and waahi tuupuna for the benefit of future generations.
- 4.3.6 Where waahi tapu and waahi tuupuna have been lost or altered, Mana Whenua will encourage actions to acknowledge these sites, as well as the sacrifices of tuupuna (ancestors)<sup>46</sup> in the catchment area, through commemorative measures (e.g pou or tomokanga).

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<sup>43</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 262 (Glossary).

<sup>44</sup> Most were interred to Taupiri maunga, many still remain in Lake Waikare.

<sup>45</sup> Gainsford, M., and Gumbly, W. (2019) Archaeological Assessment for Ambury Properties Limited Ohinewai at page 7.

<sup>46</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 119 (Point 16.1.4).

- 4.3.7 Except for the registered archaeological sites, Mana Whenua will not disclose the exact locations of sites of significance in the KEVA report, but will work with APL in a manner that is consistent with the purpose, principles and objectives of the Memorandum of Understanding between the parties.

#### 4.4 Airspace

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- 4.4.1 As a natural resource, air is a taonga, and the airspace is seen as having its own mauri (life-force) and therefore is sacred and valued by Waikato-Tainui for its life supporting capacity it brings. It is important for Mana Whenua as kaitiaki that environmental ecosystems continue to provide for the health and wellbeing of the environment, human health, Mana Whenua/cultural lifestyle and standard of living.
- 4.4.2 In an environmental context, the Ohinewai catchment is primarily rural in nature, with open spaces and farming practices. Discharges to air that have been observed by Mana Whenua are associated with smoke from home fires and farm burns, dust from earthworks, and emissions from vehicles (light and heavy).
- 4.4.3 Clean air to breathe is important to Mana Whenua, therefore any increase in the emission of contaminants into the air that compromises human health will not be supported.
- 4.4.4 In context of Mana Whenua/cultural lifestyle and standard of living, although air and wind are formless, its physical manifestation can only be seen when interacting with things external to itself (eg movement of branches on trees and the lapping and crashing waves in the ocean). This interaction enables Mana Whenua to predict the weather and therefore apply its maatauranga, tikanga and kaitiakitanga, in managing the wellbeing of the environment and its communities.
- 4.4.5 Additionally, the visibility of the moon and stars (and rainbows) are important signs/environmental indicators (or tohu) for Mana Whenua, as the movements of the moon and the lunar calendar help tell the time of year for sowing and harvesting. The stars, especially the Matariki constellation, is a reminder of ancestors passed on, that it was present at the birth of King Koroki, and is called by Waikato-Tainui as Te Waka o Tainui.
- 4.4.6 With air/airspace, Mana Whenua would like to avoid any new discharges to air that compromises human health and amenity values enjoyed by Mana Whenua.

## 4.5 Wetlands

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- 4.5.1 Waikato-Tainui traditions speak of when the lakes and wetlands teemed with large numbers of tuna (eel), koura, whitebait, kaeo (freshwater mussels)<sup>47</sup> and manu (birds).
- 4.5.2 Marae have long been established in the area to capitalise on the rich resources and to maintain their presence, and one of those resources in the lower Waikato River catchment is Whangamarino wetland<sup>48</sup>.
- 4.5.3 Additionally, the concealing nature of wetlands, Mana Whenua would store and preserve taonga within them, thus ensuring the safety of those taonga, as well as conceal the kooiwi of Waikato-Tainui tuupuna who lost their lives during the battles of Rangiriri and Meremere in 1863<sup>49</sup>.
- 4.5.4 For Mana Whenua, there is a natural relationship between Whangamarino wetland and Lake Waikare<sup>50</sup>. The mauri of Whangamarino wetlands (and other wetlands in the Ohinewai catchment) is linked to their function and the overall ecological health and wellbeing of its whakapapa (i.e. to the native fauna and flora once found in those systems)<sup>51</sup>.
- 4.5.5 The continued decline in healthy wetland state and function has resulted in losses of important hauaanga kai<sup>52</sup> and habitat for natural materials used for cultural purposes and practices (flora and fauna)<sup>53</sup> but the decline has diminished the ability of Mana Whenua to perform the role of kaitiaki to maintain and restore mauri.
- 4.5.6 The ability to undertake customary/cultural activities around existing or constructed wetlands is important for Mana Whenua, as well as its protection from farm drainage systems, or the removal of wetland margin/riparian vegetation, unnaturally high sediment (and nutrient) loads, and the introduction of noxious/pest plant and animal species<sup>54</sup>.

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<sup>47</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 107 (Point 15.1.2)

<sup>48</sup> Lake Waikare and Whangamarino Wetland Catchment Management Plan – Part 1 (2018), at page 14. [https://www.waikatoregion.govt.nz/assets/WRC/Council/Policy-and-Plans/CMP\\_Part\\_One\\_Catchment\\_Overview-WR.pdf](https://www.waikatoregion.govt.nz/assets/WRC/Council/Policy-and-Plans/CMP_Part_One_Catchment_Overview-WR.pdf)

<sup>49</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 167 (Point 20.1.2).

<sup>50</sup> Lake Waikare and Whangamarino Wetland Catchment Management Plan – Part 1 (2018), at page 14.

<sup>51</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 168 (Point 20.2.1).

<sup>52</sup> Hauaanga Kai means the customary and contemporary gathering and use of naturally occurring and cultivated foods.

<sup>53</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 169 (Point 20.2.3).

<sup>54</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 168 (Point 20.2.2).

## 4.6 Mana Whakahaere

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4.6.1 Mana Whakahaere refers to the authority that Waikato-Tainui has established in respect of the Waikato-Tainui rohe over many generations. It entails the exercise of rights and responsibilities to ensure that the balance and mauri (life force) of the rohe is maintained. It is based on recognition that if we care for the environment, the environment will continue to sustain the people.

4.6.2 In customary terms Mana Whakahaere is the exercise of control, access to, and management of resources within the Waikato-Tainui rohe in accordance with tikanga. For Waikato-Tainui, Mana Whakahaere has long been exercised under the mana of the Kiingitanga.<sup>55</sup>

4.6.3 Waikato-Tainui managed its resources in a sustainable manner, guided by maatauranga, tikanga and kawa to achieve the following<sup>56</sup>:

**a) Manaakitanga**

The capacity and ability for Waikato-Tainui to provide sustenance for all manuwhiri/visitors that arrived in the rohe.

The Maaori concept and practices of food supply and food security are integral to Maaori, it is where the relationship between environment and community and individual health is prominent, whilst also reinforcing whakapapa (genealogical ties), cultural identity and resilience.<sup>57</sup> The ability to provide ample food is a measure of wealth, representing economic and social power, and hence bestowing mana.

**b) Kiingitanga**

The appointment of Pootatau Te Wherowhero as the first Maaori king was not only based on his whakapapa, exceptional skills as a warrior, and intricate knowledge of Te Ao Maaori (the Maaori World), but also in recognition of the rich resources he commanded from the surrounding environment.

**c) Tikanga**

Management of resources ensured that Waikato-Tainui could continually provide for Waikato-Tainui and all manuwhiri. The tools required to sustain resources was encapsulated in tikanga.

**d) Kaitiakitanga**

The responsibility to protect and nurture the mauri of all living things.

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<sup>55</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 260 (Glossary).

<sup>56</sup> Waikato-Tainui Environmental Plan Tai Tumu Tai Pari Tai Ao, at page 15 (Point 1.2.1).

<sup>57</sup> McKerchar, C., Bowers, S., Heta, C., Signal, L., & Matoe, L. (2015). Enhancing Māori food security using traditional kai. *Global Health Promotion*, 22(3), 15–24. <https://doi.org/10.1177/1757975914543573>

Waikato-Tainui learnt and long recognised that, in order for the environment to sustain life, people in turn, had to protect and sustain the environment.

4.6.4 To fully exercise Mana Whakahaere in the Sleepyhead Estate development, Mana Whenua seek to work with APL/NZCG to collaborate and co-design the development in a manner that it can support Mana Whenua in Ohinewai to uphold the above-stated values through:

- (a) access to tuna and other hauaanga kai habitats ,
- (b) restoration projects to improve tuna and other hauaanga kai habitats
- (c) protection and preservation of important sites, areas and/or resources to Mana Whenua, and
- (d) environmental enhancement actions/activities pertaining to restoring mauri of taonga (land, water, lakes, sites of significance, and wetlands)

## 5. Recommended Actions

- 5.0.1 As outlined earlier in the report, it is important to Mana Whenua that their values and interests are well-considered as part of APL's rezone request, and are subsequently integrated and incorporated in the recommendation and decision of Waikato District Council on the Proposed Waikato District Plan, as it relates to the rezone request.
- 5.0.2 The following recommended actions are intended to fit two categories:
- Matters for Consideration, and
  - Matters for Implementation

### 5.1 Matters for Consideration

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- 5.1.1 Matters for consideration from the KEVA report are primarily for the Waikato District Council in their role of reviewing, hearing, and preparing recommendation(s) and decision-making on the Proposed Waikato District Plan, specifically where it relates to the rezone request, and its relationship to the RMA's central purpose of promoting sustainable management.
- 5.1.2 The recommended actions are tailored to align with Section 74(1)(a)(b) and (f), 74(2)(b)(i) and 74(2A) of the RMA.

#### Section 74 Matters to be considered by territorial authority

- (1) *A territorial authority must prepare and change its district plan in accordance with—*
- (a) its functions under [section 31](#); and*
  - (b) the provisions of [Part 2](#); and*
  - (c) a direction given under [section 25A\(2\)](#); and*
  - (d) its obligation (if any) to prepare an evaluation report in accordance with [section 32](#); and*
  - (e) its obligation to have particular regard to an evaluation report prepared in accordance with [section 32](#); and*
  - (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and*
  - (f) any regulations.*



(2) *In addition to the requirements of [section 75\(3\) and \(4\)](#), when preparing or changing a district plan, a territorial authority shall have regard to—*

*(a) any—*

*(i) proposed regional policy statement; or*

*(ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under [Part 4](#); and*

*(b) any—*

*(i) management plans and strategies prepared under other Acts; and*

*(ii) [Repealed]*

*(iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the [Heritage New Zealand Pouhere Taonga Act 2014](#); and*

*(iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—*

*to the extent that their content has a bearing on resource management issues of the district; and*

*(c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*

*(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.*

*(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.*

5.1.3 It is viewed that the values and interests of Mana Whenua contained in this KEVA report provides information for consideration, incorporation and integration into the following:

a) Objectives, policies and methods in the Proposed Waikato District Plan to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources in the Structure Plan area for the proposed Sleepyhead Estate development, and the



wider Ohinewai/lower Waikato River catchment area (Section 31(1)(a) of the RMA)

- b) Objectives, policies and methods in the Proposed Waikato District Plan to ensure that there is sufficient development capacity in respect of housing and business land identified in the Structure Plan area for the proposed Sleepyhead Estate development (Section 31(1)(aa) of the RMA)
  - c) Controls of any and potential effects of the use, development, or protection of land for the avoidance or mitigation of natural hazards (Section 31(1)(b)(i) of the RMA) and the maintenance of indigenous biological diversity (Section 31(1)(b)(iii) of the RMA) in the Proposed Waikato District Plan where it relates to the Structure Plan area for the proposed Sleepyhead Estate development, and the wider Ohinewai/lower Waikato River catchment area (Section 31(1)(a) of the RMA).
- 5.1.4 In addition to the above, it is also viewed that the KEVA report informs the Waikato District Council on Part II matters of the RMA (Sections 5-8) for the proposed Sleepyhead Estate development as a result of providing specifically related information regarding Section 6(e), Section 7(a), and Section 8 of the RMA.
- 5.1.5 The KEVA report presents information that strengthens the objectives (and their options) stated in the Waikato District Council's "Section 32 Report – Part 2 Tangata Whenua" dated June 2018, specifically where it relates to Issue 2 – Inappropriate Development<sup>58</sup>. These objectives are:
- **2.11 Strategic Objective (Tautoko te Whakatupuranga)**  
*To support Iwi aspirations to grow a prosperous, healthy, vibrant, innovative and culturally strong people.*
  - **2.12 Objective - Whakapapa (connection to nature)**  
*a) Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.*
  - **2.13 Objective - Whenuatanga (land management)**  
*a) Tangata whenua have the ability to utilise, manage and enjoy their traditional resources in accordance with tikanga Maaori, including maatauranga Maaori, maintaining their relationship to ancestral land.*
  - **2.14 Objective - Kaitiaki (steward / guardian)**  
*a) The role of Tangata Whenua as kaitiaki is recognised and maintained.*

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<sup>58</sup> The Issue Statement for Issue 2 – Inappropriate Development: The relationship of Maaori with their culture and traditions and with ancestral lands, water, waahi tapu and other taonga may be destroyed or compromised through inappropriate development.

- **2.15 Objective - Waikatotanga (way of life)**  
a) *Cultural practices and beliefs of Tangata Whenua are respected.*
- **2.16 Objective - Tikanga aa-iwi o te Takiwaa o Waikato**  
a) *Recognise the cultural significance of Waikato Takiwaa (district).*

5.1.6 Furthermore, the KEVA report contextualises the contents within the Waikato-Tainui Environmental Plan: Tai Tumu Tai Pari Tai Ao to the values and interest of Mana Whenua in the Ohinewai catchment area, therefore providing support in the consideration requirements under Section 74(2)(b)(i) and Section 74(2A) of the proposed Sleepyhead Estate development.

5.1.7 Lastly, the Vision and Strategy/Te Ture Whaimana is the primary direction setting document for the Waikato River, and prevails over any inconsistent provision in an RMA planning document.

Mana Whenua reaffirm the legal/statutory obligations for local authorities within the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

## 5.2 Matters for Implementation

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5.2.1 Matters for implementation are primarily for APL to consider and work in partnership with Mana Whenua within the agreed scope and activities outlined in the Memorandum of Understanding of the parties.

5.2.2 In a similar manner, the KEVA report will support Mana Whenua participation in the Tangata Whenua Working Party discussions over the lifetime of the proposed development. As a baseline report, it is anticipated that discussions will be in the co-development of any measure(s) that seek to manage (avoid, remedy, mitigate and offset) any actual and potential impacts to Mana Whenua, as well as inform cultural impact statements used by both Mana Whenua and APL in future/upcoming resource consent applications.

5.2.3 Overall, Mana Whenua are encouraged by the opportunities that the Sleepyhead Estate development will bring to Ohinewai, and widely the Waikato region.

5.2.4 Additionally, Mana Whenua recognises the efforts of APL and their agents in their engagement and willingness to discuss and accommodate (through technical investigation) the initial concerns of Mana Whenua prior to the full development of the KEVA report.

5.4.5 The fundamental factors for Mana Whenua are:

- To uphold, recognise and provide for the Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato,

- That Mana Whenua (via the Tangata Whenua Working Party) continue to be active participants to enable the expression and exercise of Mana Whakahaere to protect and nurture the mauri of all living things and be active managers of the values and interests identified in the KEVA report (and any future reports), and
  - Opportunities to advance Mana Whenua social, economic, environmental and cultural aspirations, such as papakaainga housing, employment and enterprise within the Sleepyhead Estate, and environment enhancement/restoration activities.
- 5.2.6 As stated in point 5.1.7, Vision and Strategy/Te Ture Whaimana is the primary direction setting document for the Waikato River, and prevails over any inconsistent provision in an RMA planning document. The Waikato River is defined in the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.
- 5.2.7 The overarching purpose of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 is to restore and protect the health and wellbeing of the Waikato River for future generations. Mana Whenua will pursue with APL the recognition (and its interpretation) of Vision and Strategy/Te Ture Whaimana in the proposed Sleepyhead Estate development.
- 5.2.8 It is acknowledged that APL have been considering the Vision and Strategy/Te Ture Whaimana for its proposal, and Mana Whenua wish to provide further guidance to APL in the interpretation and application of the the Vision and Strategy/Te Ture Whaimana in the lower Waikato River catchment (includes Ohinewai).
- 5.2.9 One possible avenue in the rezoning submission/request to the Proposed Waikato District Plan, is the inclusion of the Vision and Strategy/Te Ture Whaimana as an objective (or a similarly framed objective) alongside the other objectives that set the purpose for the rezoning submission/request. This would assist in identifying (and assessing) the costs to, and benefits for, Mana Whenua currently outlined in section 7 of the Assessment of Environmental Effects report and Section 32AA Evaluation document prepared by Bloxam Burnett & Olliver dated December 2019.
- 5.2.10 This approach would ensure that the proposed amendments to the Proposed Waikato District Plan, specifically those amendments that introduce the Ohinewai Structure Plan and consequential changes across the Proposed Plan<sup>59</sup>, will provide for at least two of the three fundamental factors identified by Mana Whenua.

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<sup>59</sup> As sought in the Assessment of Environmental Effects report and Section 32AA Evaluation document prepared by Bloxam Burnett & Olliver dated December 2019.

5.2.11 Similarly, the inclusion of Mana Whenua values and interests in two of the objectives that set the purpose for the rezoning submission/request, will provide for all three fundamental factors identified by Mana Whenua. Examples for consideration and discussion are:

- 1. NZCG to establish a consolidated factory development of 100,000m<sup>2</sup> with an associated rail siding *that is shaped by the development principles for the Waikato region and enhances the environment.*
- 4. Residential development to provide affordable housing for employees of NZCG, *papakaainga housing in partnership with Mana Whenua*, and for housing that is available on the open market.

5.2.12 For resource consent applications, the KEVA report has outlined the values and interests of Mana Whenua, which will assist APL in identifying and assessing the actual and potential adverse cultural effects, and initiating discussions with Mana Whenua on measures to mitigate, remedy, avoid, and/or offset those effects.

5.2.13 To consolidate the values and interests of Mana Whenua, these are:

#### Land

Mana whenua seek to restore the mauri of the land (and lakes) in balance with achieving the environmental, social, cultural, spiritual and economic aspirations of Waikato-Tainui by (but not limited to):

- Retiring marginal lands from unsustainable land uses,
- Avoiding further clearance/degradation of indigenous vegetation and disturbance of land prone to heavy erosion,
- Protect water-bodies from erosion and sediment, and any contaminants,
- Planting indigenous vegetation, and if possible, locally sourced indigenous vegetation are preferred,
- Continued, and/or enhanced, access to traditional areas for customary and cultural activities,
- Management measures and practices to protect and preserve taonga, cultural/customary practices, and sites and activities of significance to Mana Whenua
- That the development seeks to restore the capacity of the local ecosystem, especially ecosystems that function without human intervention:
  - By incorporating in the design of the development, the inclusion of an area of land/wetland (e.g constructed wetlands) towards the restoration of taonga, and

- Financially supporting projects that seek to restore taonga in the immediate vicinity of the development area, and
- The prevention and/or mitigation of potential contaminants in run-off water from impervious surfaces (paved areas), reaching open water bodies (drains, streams etc)
- In the design processes for the Sleepyhead Estate, weaving Mana Whenua narratives and values (maatauranga Maaori) into the development will enhance and deepen the sense of place/identity and connectivity between people and place.
- Mana Whenua wish to engage with APL to discuss opportunities in:
  - Providing for papakaainga housing within the identified residential housing precinct of the Sleepyhead Estate development,
  - The employment of local people (particular Maaori), and business and cultural enterprise, within the Sleepyhead Estate development, and
  - Reclaiming any residue and developed land within the Sleepyhead Estate development by establishing a RFR mechanism between Mana Whenua and APL (or the New Zealand Comfort Group) before lands are offered to the open market.

**Water (Includes Riverine Lakes)**

- The recognition and enhancement of the relationship between Waikato-Tainui and the Waikato River, its flood plains, and the shallow riverine lakes, and:
- Protection of water-bodies (river, lakes, wetlands, streams/tributaries), from the negative impacts of land use (includes agricultural, residential/commercial and industrial development),
- The eradication, control and management of introduced flora and fauna species that have proven to be harmful to the health of people, air, land and water bodies, with special emphasis on koi carp and other noxious pests,
- Aspire for improvements in the quality of water (and state of water-bodies) in the lower Waikato River catchment to drinkable, swimmable and fishable standard,
- Continued, and/or enhanced, access to traditional areas for customary and cultural activities,
- Seek support to restore wetlands and water-bodies in the lower Waikato River catchment that are unable to properly sustain life, and
- Management measures and practices to protect and preserve:

- Taonga, cultural/customary practices, and concealed kooiwi of Waikato-Tainui tupuna/ancestors, in wetlands.
- Sites and activities of significance to Mana Whenua
- Consider beneficial re-use and on-site management of stormwater and wastewater

#### **Sites of Significance - Waahi Tapu/Tuupuna**

- Avoid sites of significance being altered or lost, therefore protect waahi tapu and waahi tuupuna for the benefit of future generations,
- Acknowledge the sacrifices of tuupuna (ancestors) through commemorative measures (e.g pou or tomokanga).
- Work with APL that is consistent with the purpose, principles and objectives of the Memorandum of Understanding between the parties in disclosing, where applicable, the exact locations of sites of significance.

#### **Airspace**

With air/airspace, Mana Whenua would like to avoid any new discharges to air that compromises human health and amenity values enjoyed by Mana Whenua.

#### **Wetlands**

- The ability to undertake customary/cultural activities around existing or constructed wetlands
- Protection of wetlands from farm drainage systems, or the removal of wetland margin/riparian vegetation, unnaturally high sediment (and nutrient) loads, and the introduction of noxious/pest plant and animal species.

#### **Mana Whakahaere / Kaitiakitanga**

Mana Whenua seek to work with APL/NZCG to collaborate and co-design the development in a manner that it can support Mana Whenua in Ohinewai to uphold the above-stated values through:

- Access to tuna and other hauaanga kai habitats ,
- Restoration projects to improve tuna and other hauaanga kai habitats
- Protection and preservation of important sites, areas and/or resources to Mana Whenua, and
- Environmental enhancement actions/activities pertaining to restoring mauri of taonga (land, water, lakes, sites of significance, and wetlands)



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