Before an Independent Hearings Panel

The Proposed Waikato Regional Plan Change 1

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF the Proposed Waikato Regional Plan Change 1, Block 3 hearings, Supplementary Evidence in response from Council Officers to questions from Hearings Panel: **Question 18: Ancestral Lands**

EVIDENCE OF MURRAY HEMI
ON BEHALF OF WAIRARAPA MOANA KI POUĀKANI INCORPORATION

Dated: 19 July 2019

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1. EXECUTIVE SUMMARY

1.1 My full name is Murray Allan Hemi. I am a member of the Committee of Management for the Wairarapa Moana ki Pouākani Incorporation.

1.2 The Wairarapa Moana ki Pouākani Incorporation Wairarapa Moana is owned by over 3,000 descendants of the original owners of Lake Wairarapa.

1.3 On 13 January 1896, Wairarapa Māori signed an agreement to hand over the Wairarapa Lakes to the Crown. The transfer arose after some 20 years of litigation between the Crown and Wairarapa Maori over the ownership and control of Lake Wairarapa. Premier Richard Seddon had arranged the compromise by promising Wairarapa Māori an appropriate reserve of 3,000 acres.

1.4 After twenty years, the only appropriate reserve offered by the Crown was land in the Pouākani region; not in the Wairarapa. On 1 December 1910, under the direction of Native Minister James Carroll, land at Pouākani was set aside for “transfer to the Māori owners of the Wairarapa Lake in lieu of…certain area around the Lake.”

1.5 Wairarapa Māori continue to occupy and utilise this land to this day.

2. INTRODUCTION

2.1 My full name is Murray Allan Hemi. I am a member of the Committee of Management for the Wairarapa Moana ki Pouākani Incorporation (**WMI**).

2.2 I am a shareholder of WMI as well as descendant of the original owners of Wairarapa Moana who were gifted land in the Pouākani region:

(a) My grandmother gave me shares to the then Pouākani II Trust when I was born and as a young child, she took me along to many of their meetings. From age 19 I became an actively involved in the affairs of the Proprietors of Mangakino Township Incorporation and the Pouākani II Trust. I was a junior member on the Committee of Management in 1988 and was a member of the Wairarapa Moana ki Pouākani Incorporation in the 2000s. I am again serving on that same Committee having been elected in 2015.

(b) I belong to Pouākani marae. My family shifted to one of the Mangakino farms in 1970 and then shifted to nearby Tokoroa in the 1970s. I grew up in Tokoroa but one of the original first settlers, Major Mason, taught me a lot of what I know about our history and whakapapa in Pouākani.

(c) I have a BA in Maori from Canterbury and a M App Sci (Hons) – Natural Resource Management from Lincoln.

(d) From 1993-1996 I undertook an oral history project recording the oral histories of many of the remaining first settlers on the Pouākani Block.

(e) I was extensively involved in a history of Lake Wairarapa, “Wairarapa: the lake and its peoples”. I contributed to four chapters on the Pouākani Block in that book which was published on 2012.

(f) I have spent some 20 years as an environmental communication consultant and professional historian. I have written a number of history publications as well as published academic papers on matauranga Maori and Western science with Waikato University.

(g) I am employed at Miraka as Kaitiaki o te Ara Miraka, GM Environmental Leadership.

2.3 I am authorised to give this evidence on behalf of WMI.

2.4 WMI submitted on Plan Change 1 but did not submit on the definition of tangata whenua ancestral lands as the definition appeared adequate and we had no concerns about WMI’s status under that definition. I now provide supplementary evidence on Waikato Regional Council Officer’s response to the Hearing Panel’s question on the definition and its application to WMI.

3. SCOPE OF EVIDENCE

3.1 My evidence will:

(a) Provide the definition of Tangata whenua ancestral lands in PC1, the question from the Panel, and the response by Matthew McCallum Clark; and

(b) Outline the status of WMI lands and the nature of their ancestral relationships, and describe how WMI lands thereby fall within both parts of the definition.

4. DEFINITION OF TANGATA WHENUA ANCESTRAL LANDS IN PC1

4.1 Definition - Tangata whenua ancestral lands

Tangata whenua ancestral lands: means land that has been returned through the settlement processes between the Crown and tangata whenua of the catchment, or is, as at the date of notification, Maori freehold land under the jurisdiction of Te Ture Whenua Maori Act 1993.

5. QUESTION 18: ANCESTRAL LANDS

5.1 The Panel asked Waikato Regional Council:

"119. Is there an issue with the PC1 definition of Tangata Whenua ancestral lands in relation to 'returned'? And does it apply to Wairarapa Moana? The Panel noted they received land through settlement in the catchment however it is arguably not ancestral land returned as they are an iwi from Wairarapa." (20 March)

6. WAIKATO REGIONAL COUNCIL OFFICERS' RESPONSE (MATTHEW MCCALLUM CLARK)

6.1 Matthew McCallum Clark responded:

"120. Section 6(e) of the RMA states that all persons shall recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. The definition of tangata whenua ancestral lands in PC1 gives effect to Section 6(e) as land that has been returned through Treaty of Waitangi settlement processes. This provides for the relationship Māori have with their ancestral lands and does not apply to Wairarapa Moana as the settlement land they received is not ancestral land that has been returned. Also, Wairarapa Moana are not tangata whenua of the Waikato and Waipā River Catchments. Officers understand CSG and WRC made a deliberate decision on this point, and therefore the existing definition aligns with this decision."

7. WAIRARAPA MOANA INCORPORATED RESPONSE

7.1 The lands provided to WMI in 1915 as substitution for the loss of ancestral lands in the Wairarapa were all that were on offer and made available by the Crown. Location notwithstanding, WMI have held and maintain a relationship of an equivalent nature to that of tangata whenua. They have owned the land for over 100 years and uphold all the traditional functions of an iwi group including kaitiakitanga.

7.2 There is an important natural justice aspect regarding losing land while gaining compensatory land in another region at the hands of the Crown. Such land should hold all the normal relationships of iwi and their land – as was our understanding at the time Pouākani lands were accepted. To offer substitute land on less than those terms is a double disenfranchisement. WMI continue to own, occupy and administer their lands in a classic traditional manner, a manner indistinct from any other ancestrally-owned Maori freehold land in the region.

7.3 The land is subject to Te Ture Whenua Act 1993 which is the case for all Maori freehold land in New Zealand up until the recent treaty settlements post 1975. It has therefore been subjected to the constraints and prejudices of all other Maori land in the region commonly held in Trusts and Incorporations. Accordingly, while unique,

WMI should not suffer further prejudice given that the original plan change definition was developed to support and recognise all Maori landowners in the region affected by the proposed plan changes.

7.4 Maori freehold title has the ability to incorporate Maori customary rights (adhering to traditional and historical forms of land ownership), Maori contemporary rights (adhering to land re-acquired as a result of Crown actions such as offers-back on takings for Public Works and Treaty settlement provisions), and commercial property rights (adhering to land as a result of Crown title). These might be considered as a bundle of rights attached to Maori freehold land.

7.5 McCallum-Clark seeks to recognise only a small component of the bundle of these rights - Maori customary rights arising from traditional and historical forms of land ownership. Why Maori contemporary rights and commercial property rights are to be excluded from the definition goes without explanation or analysis.

7.6 It is unclear what purpose the strictly limited interpretation of the definition of tangata whenua ancestral lands, suggested by McCallum-Clark would serve. It provides no benefit while, at the same time, excludes Maori landowners who are occupying land in the region in entirely similar circumstances and under the exact same traditional frameworks.

7.7 Further, McCallum-Clark ignores the second important aspect of the definition of tangata whenua ancestral lands: "**or** is, as at the date of notification, Maori freehold land under the jurisdiction of Te Ture Whenua Maori Act 1993." McCallum-Clark provides no rationale or analysis for ignoring the second part of the definition. WMI land clearly falls within this definition, being Maori freehold land under the jurisdiction of Te Ture Whenua Maori Act 1993.

7.8 In both instances, a decision to strictly limit the definition of tangata whenua ancestral lands should be supported by a clear rationale and analysis. McCallum-Clark's response is thereby incomplete and inconsistent.

7.9 The McCallum-Clark approach to the definition of tangata whenua ancestral lands, in both his interpretation and in what he has left out, seems both prejudicial and exclusionary.

7.10 WMI submitted on Policy 16 of the plan change but did not submit on this issue of whether their lands would be considered as tangata whenua ancestral land as it assumed their lands would be. It is disappointing that WMI have not been consulted on this matter – a matter directly affecting their place and future in the management and participation in our Healthy Rivers.

8. SUMMARY

8.1 WMI hold and maintain a relationship to their lands of an equivalent nature to that of tangata whenua, upholding all the traditional functions of an iwi group including kaitiakitanga. Therefore, we consider we meet the first part of the definition of tangata whenua ancestral lands.

8.2 Even if we did not, we clearly do meet the second part of the definition "**or** is, as at the date of notification, Maori freehold land under the jurisdiction of Te Ture Whenua Maori Act 1993." I note we only need to meet one part, with the two aspects separated by 'or'.

8.3 Any failure of recognition of this within the Plan Change process would effectively amount to a double disenfranchisement – the first being the loss of our original lake lands and the traditional rights attached to it, followed by a second loss being of recognition of status over the lands we have occupied and maintained a relationship with ever since. Over this time this relationship has been maintained in a classic traditional manner, a manner indistinct from any other ancestrally-owned Maori freehold land in the region

8.4 The interpretation that strictly limits the definition of tangata whenua ancestral lands is not supported by a clear rationale or analysis. WMI lands are tangata whenua ancestral lands.

Murray Hemi
19 July 2019