

**BEFORE THE INDEPENDENT HEARING PANEL**

**AT HAMILTON**

**IN THE MATTER** of the Resource Management Act  
1991

**AND**

**IN THE MATTER** of the Proposed Waikato Regional  
Plan Change 1 Waikato and Waipa  
River Catchments

**AND**

**IN THE MATTER** of Variation 1 to the Proposed  
Waikato Regional Plan Change 1  
Waikato and Waipa River  
Catchments

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**JOINT MEMORANDUM OF COUNSEL FOR THE DIRECTOR-GENERAL OF CONSERVATION AND FISH  
AND GAME COUNCILS CONCERNING PROPOSED FRESHWATER SCIENCE EXPERT  
CONFERENCING**

**Dated 8 March 2019**

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Department of Conservation

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Hamilton

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**MAY IT PLEASE THE HEARING PANEL:**

**Introduction**

1. This memorandum is filed on behalf of the Director-General of Conservation (**DOC**) and the Auckland/Waikato & Eastern Region Fish and Game Councils (**F&G**).
2. Freshwater science expert evidence on Plan Change 1 has been lodged on behalf of DOC and F&G.

**Memorandum of Counsel for Waikato Regional Council dated 7 March 2019**

3. Counsel for DOC and F&G firstly comment on the Memorandum dated 7 May filed by Counsel for Waikato Regional Council (WRC):
  - a. In terms of paragraph 4, Counsel submit that it would be desirable for more *specific* questions, to be set out in the draft agenda. These more specific questions, are discussed further below. Counsel for WRC indicates that identifying questions are an important role of experts at conferencing. Counsel for DOC and F&G disagree and consider that approach would be inefficient, and unhelpful, in this instance.
  - b. In terms of paragraph 6, DOC and F&G consider that any expert who has not to-date filed a statement of evidence, may attend any freshwater expert conferencing only on the basis that:
    - i. the relevant submitter demonstrates that the person qualifies as a freshwater science expert; and
    - ii. such persons lodge 'will say' statements prior to conferencing.

**Draft outline of agenda for expert conferencing on Table 3.11-1 (04 March 2019)**

4. Counsel for DOC and F&G were consulted over the draft outline of agenda (**the Draft Agenda**) attached to the Memorandum and comment as follows:
  - a. Paragraph 7 (the proposal that conferencing occur over the course of 2 days): experts for DOC and F&G have estimated up to 3 days may be required given the indicative list of issues for discussion, and the evidence filed to-date.

- b. Counsel for DOC discussed with Counsel for WRC the approach of having a week gap in between conferencing days. It is submitted by DOC and F&G that a preferable approach would be for conferencing to be set down for up to three consecutive days, to minimise the risk of progress, momentum, or agreements reached in the conference unravelling in the intervening week. This approach would also help reduce time and costs experts incur in attending any conferencing, particularly for those who reside outside of Hamilton.
  
- c. Paragraph 7(c): Counsel for DOC and F&G suggest an additional sub-question for the experts to consider and advise on is *“what is the most appropriate approach to be taken where there is uncertain or inadequate information available”*.
  
- d. Paragraph 7(d) (*“Table structure: are there improvements that can be made to improve clarity, alignment with the NPS-FM etc?”*): Although this question has value, Counsel for DOC and F&G are reluctant for experts to determine how to apply the terms *“freshwater objective”, “limit”, and “target”* as contained in the NPS-FM because this involves planning expertise. Therefore following words should be added: *“Experts may consider that the application of the terms ‘freshwater objective’, ‘limit’ and ‘target’ is beyond their expertise”* (or words to a similar effect).
  
- e. Paragraph 7(e) - DOC and F&G request that the following sub-questions be added:
  - i. Identification of any errors/inconsistencies in the Table and how they should be corrected;
  - ii. Identification of any changes to the numerics that would be required to provide for the values in Plan Change 1, and/or the values sought by submitters and supported by expert evidence (including ecosystem health, swimmability, mahinga kai and fisheries);
  - iii. Are any of the short-term or long-term targets in Table 3.11-1 currently inconsistent with the values or objectives of Plan Change 1 or the Vision & Strategy for the Waikato River? Please identify.
  
- f. Paragraph 7(f) - DOC and F&G request that the following sub-questions be added to the agenda:

- i. Identification of any additional attributes to the Table to provide for the values of Plan Change 1 including the values of ecosystem health, swimmability, mahinga kai and fisheries;
- ii. Identification of the level at which any additional attributes should be set, with reference to the objectives of Plan Change 1 and the Vision & Strategy e.g. for NOF attributes, which 'band' in the NOF?
- iii. Where should any additional attributes apply?
- iv. Are any additional attributes required to give effect to Objective 6, and the sub-catchments that contribute to the Whangamarino wetland?
- v. Are any additional attributes required for the Lakes and where should those attributes apply?
- vi. Are any additional attributes required for the Waikato estuary?
- vii. Are any medium-term targets required to be added to table 3.11-1 to provide for the values or objectives or Vision & Strategy of the Waikato River? Please identify.

5. Counsel for DOC and F&G concur with paragraphs 8 and 9 of the draft agenda.

6. Counsel thank the Hearing Panel for the opportunity to comment on the proposed expert conferencing.

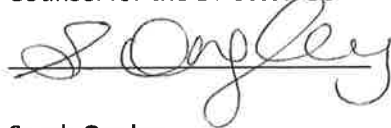
Dated this 8<sup>th</sup> day of March 2019



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Victoria Tumai

Counsel for the Director-General of Conservation



Sarah Ongley

Counsel for Auckland/Waikato & Eastern Region Fish and Game Council