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**Subject:** FW: Watercare hearing arrangements - COVID-19 restrictions and tikanga in a virtual setting

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**From:** Taipu Paki [REDACTED] >

**Sent:** Friday, 24 September 2021 1:57 pm

**To:** Sara Thomas-Hall [REDACTED] >; Donna Flavell [REDACTED] >

**Cc:** Adair Houia-Ashwell [REDACTED]; paul.beverley [REDACTED]  
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<[REDACTED]> Jamie <Jamie [REDACTED]>

**Subject:** RE: Watercare hearing arrangements - COVID-19 restrictions and tikanga in a virtual setting

Teena koe Sara

Thank you for your patience on this matter and giving us time to review it properly. As you are aware Waikato-Tainui has been carefully considering the issue of virtual hearing arrangements and the extent to which appropriate tikanga can be followed when it comes to such a hearing. We know that the Board has determined to proceed with plans to hold the hearing kanohi ki te kanohi provided Waikato remains at the current restrictions of COVID-19 Alert Level 2 (Delta), with the ability for those who cannot or do not wish to attend in person to participate by video (which has been referred to as a hybrid approach). However, the Board has advised of its intention to revert to a fully virtual hearing should the Waikato move back to Alert Level 3 or 4.

We have discussed this situation both internally within Te Whakakitenga o Waikato at both a management and governance level and also with several of the other Waikato-Tainui submitter groups. In terms of the hybrid approach, we are confident that the Waikato-Tainui submitters will wish to participate on a kanohi ki te kanohi basis which enables those groups to present their evidence and submissions collectively and in accordance with all appropriate tikanga.

However, after due consideration of a fully virtual hearing, we remain of the view that the appropriate tikanga should be for the hearing to be kanohi ki te kanohi and we strongly oppose a fully virtual hearing. As was shared during the conference call with the Board in the context of our previous application to defer the hearing, the nature and extent of our issues cannot easily be traversed by a collective group through a virtual platform, but should instead be addressed in a face to face manner consistent with the exercise of our mana whakahaere supported by the korero and manaaki of our respective kaitiaki and kaumatua present in person.

Although we appreciate that we live in challenging times, it is a priority for us to ensure that we exercise our tikanga in a manner that does not place our tupuna awa, the Waikato River, as a secondary consideration. We are not in a position to separate the tikanga of our tupuna awa from that of hearing protocols as they are intrinsically linked. This process will inevitably have an impact on the exercise of tikanga both in respect of the tupuna awa and the people that are involved in this proceeding. As a result of intergenerational learnings we have an obligation to do everything we can to protect, support and sustain the River and to try and do this through a virtual hearing is not the appropriate platform at this time. We are also very conscious of the additional pressures and challenges that a move to Alert 3 or 4 places on our iwi members as well as the tribal organisation so having to accommodate, manage and participate in a virtual hearing on what will likely be very short notice adds another whole level of difficulty.

We appreciate that a significant factor in the Board's thinking is the statutory timeframe within which it must issue its decision. We therefore consider given the risk that must necessarily exist in the current environment regarding Alert Levels, that it would be reasonable for the Board to formally request an extension of time from the Minister in the circumstances. We understand that an informal inquiry was made previously by the EPA with the Ministry for the

Environment however a formal request from the Board did not follow. We further understand from discussions that we have had that the Minister would be prepared to at least consider such a request if it was made by the Board. We therefore strongly recommend that the Board (or the EPA on its behalf) make a request directly to the Minister for an extension to the timeframe for the Board to issue its decision. In support of this, Waikato-Tainui will also write to the Minister supporting the request of the Board and advocating for an extension that would allow for the hearing to be further deferred (to enable the hearing to be held in person) in the event that Alert Levels increase. We do acknowledge the level of uncertainty this may cause as to the period/timeframe for which any extension should apply, but we think a request for an extension until 31 March 2022 would alleviate any immediate pressure. We certainly consider that the Board and EPA should pursue that option before determining that a virtual hearing is the only other possible scenarios if we are in Alert Level 3 on 5 October.

We therefore urge the Board and EPA to communicate directly with the Minister's office and seek an extension of the timeframe for the Board to issue its decision. As noted, Waikato-Tainui intends to do likewise. In the interim, Waikato-Tainui will also continue to work with the EPA on the most appropriate way forward even in terms of the proposed hybrid hearing and the accommodation of tikanga for those not present in person as well as managing the logistics of hearing numbers at Level 2 Delta when large numbers of iwi members may be in attendance during parts of the hearing. I confirm that I will be the primary point of contact at Waikato-Tainui on these and related matters so any questions or communications should be directed to me in the first instance.

Ngā mihi



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