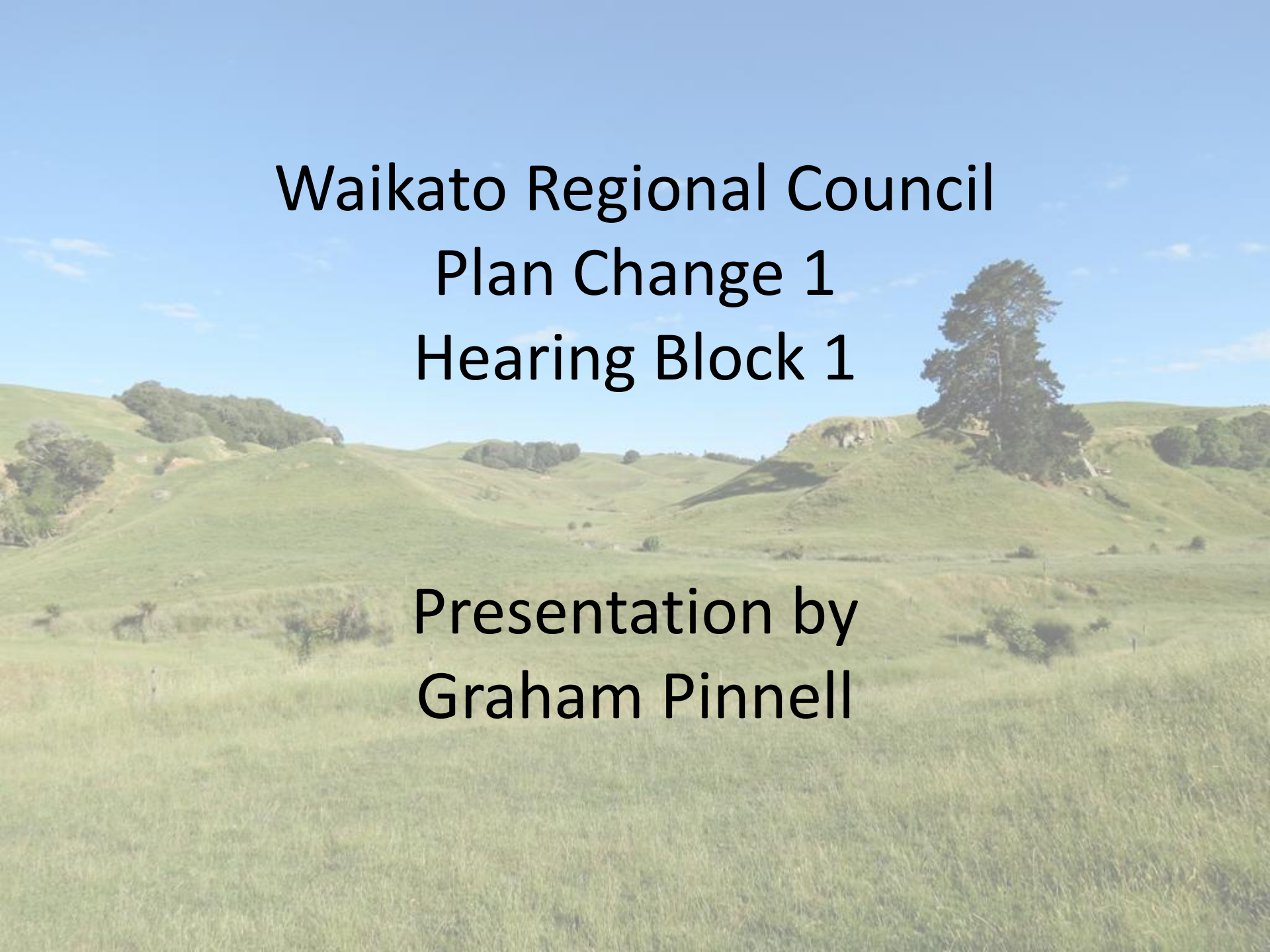

Waikato Regional Council
Plan Change 1
Hearing Block 1

Presentation by
Graham Pinnell

My background

- Joint owner of Cambridge drystock farm – now sold.
- First riparian fencing carried out 20 years ago. 90% of feasible sites completed.
- Bush remnants fenced, infill planted, weeds & pests controlled.
- Tertiary qualifications in natural resource engineering and economics.
- Served on the boards of 2 Crown regulators – Electricity Commission and Environmental Protection Authority.

Safe for swimming and taking food:

- A mandatory requirement, *or*

- Just one of 13 V&S objectives "to be pursued"[1] in "giving effect to"[2] the RPS "in order to achieve the purpose"[3] of the RMA.

[1] Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 Schedule 2 Cl 1(3)

[2]RMA s67(3)(c)

[3]RMA s63(1)

The mandatory notion has been pervasive

- The V&S as published by the Waikato River Authority states on p2, “the ultimate measure of the Vision and Strategy will be that the Waikato River will be safe for people to swim in and take food from over its entire length”. This statement is not included in the legislation.
- The CSG deliberated in the belief the objective was a mandatory requirement.[1]
- Council publications repeated this[2].
- Therefore the proposed PC1 and submissions have been severely tainted by this construct.

[1] Refer to my submission paragraphs 32 & 33

[2] “Protecting our water Tiakina o tatou wai”, Waikato Regional Council, 30 September 2015

The legal construct is tempered

- The 13 V&S objectives in part compete with each other, so cannot be simultaneously achieved; e.g., objective (d) economic, social and cultural relationships often compete with restoration of water quality.
- Objective (k) safe for swimming and food has no greater status in law than the other objectives.
- Importantly, the cornerstone of the RMA, the weighing of the s5 well-beings of sustainability is central to all PC1 decisions. ***One V&S objective does not trump s5.***

I oppose Objective 1, requesting instead that the Table 3.11-1, 80 year targets be stated as aspirational and have no regulatory status.

- The CSG erred by ignoring well-beings other than environmental in framing Objective 1.
- The TLG was not able to find a basket of mitigations that would achieve Objective 1. As a matter of good regulatory practice, the decision-maker should be able to demonstrate that a regulation is at the very least feasible.
- Including the 80 year targets as an objective gives them unjustified status for framing the rest of the plan, and for plan implementation, including influencing decisions on resource consents.

Weighing Section 5 well-beings

- The Environment Court has granted decision-makers wide discretion in weighing the well-beings of sustainability.
- What is best regulatory practice in weighing the well-beings?
- Surely, decisions should target optimal overall well-being.

ALARP – As Low As Reasonably Practicable

- That is, the level of pollution is tolerable if the cost of any further mitigation exceeds the assessed benefits of that mitigation, taking account of all the well-beings of sustainability.
- ALARP is an expression of optimal sustainability.
- While ALARP cannot be applied in a mechanistic way because of the paucity of information, it remains a powerful concept in weighing the well-beings of sustainability.
- ALARP is consistent with and more precise than “best practicable option”.

Cost effectiveness is a step towards ALARP

- Cost-effectiveness is about finding the least cost way of achieving a chosen level of pollution, but says nothing about the optimal level.
- It requires ordering the various available mitigations (which can be presented as a mitigation curve), so that the least-cost ones are chosen in order to reach the desired level of pollution.
- Where costs are largely economic, mitigation curves can and have been constructed for NZ farming impacts.
- ALARP uses the same information, and steps along the mitigation curve until the optimal point is reached.