



15 July 2020

Waikato District Plan Hearings Committee
Waikato District Council
Private Bag 544,
Ngaruawahia 3742
New Zealand

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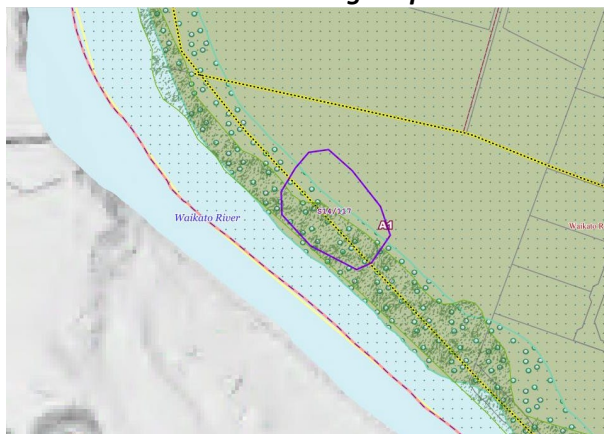
Dear Sir/Madam

Hearing 20 – Maori Sites of Significance & Maori Areas of Significance:
Evidence Circulation
Submitter FS987.1 (Blue Wallace Surveyors Ltd)

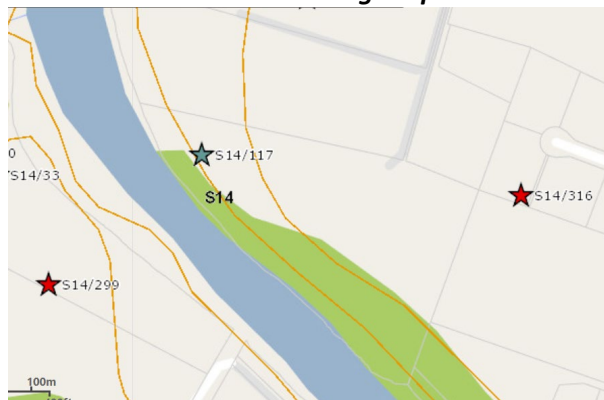
1. Blue Wallace Surveyors Limited ('BWS') - further submitter *FS987.1* - wishes to table evidence with the hearings panel in regard to *Hearing 20 – Maori Sites of Significance & Maori Areas of Significance* (MSOS) which commences on 3 August 2020.
2. BWS has reviewed the Council Planner's recommendation (as well as the s42A Technical Report) relating to their further submission and considers that both the recommendation and report do not address, nor adequately respond to, the principle matter of concern expressed in regard to *Submission 978* - this being that "... WDC must undertake further balanced evaluation" before assigning restrictive MSOS annotations on private properties across the district (submission point 7).
3. *FS987* supported *Submitter 978* to the extent that when assigning MSOS there needs to be fair and reasonable collaboration and assessment for cultural feature identification of private land in order to appropriately determine a significance ranking. As currently recommended in the s42A report, nearly all actual and potential sites of cultural interest across the district are deemed to be significant – and are consequently to be annotated on the applicable Proposed Waikato District planning maps.
4. In considering the s42A report recommendation – being to reject *FS987* - BWS contend that the impact of a pre-determined MSOS annotation needs to be taken in to account in regard to a feature's level of significance and the consequential effect on future development of the Site on which it is located.
5. In disagreeing with the s42A Planners recommendation, BWS seek that the Hearings Panel adequately recognize that constraints imposed by a MSOS annotation needs further balanced evaluation against the current zoning of the property and the features degradation and spatial extent so as to ensure the level of significance to be assigned is accurately articulated so not to unreasonably restrict a landowner's development rights. Until such an evaluation is undertaken, the large MSOS purple polygon (as indicated below) is not to be attached on the property (*note: the NZAA notification will remain*).
6. Whilst the feature indicated under *Submission 978* has been subject to archaeological assessment, the accuracy of the relevant assessments are disputed as to the significance, degradation and spatial extent of the Site – and as such, a nominal, large and curiously delineated restrictive notation on the private property will significantly undermine development potential when considered against the land's underlying urban use zoning.



ODP Planning Map



PDP Planning Map



New Zealand Archaeological Association (NZAA) Database Map

7. BWS consider that, in a wider sense, annotating MSOS on private land has the potential to carry with it a significant economic and financial burden to landowners. In the first instance, such a burden needs to be appropriately established and delineated with a degree of accuracy prior to being demarcated on private property.
8. BWS acknowledge the importance in protecting the Waikato District's significant heritage and cultural resources; however, such protection requires a *balanced evaluation*, and thus calibrated against a number of variable elements. Such considerations would assist in determining the level of 'significance' or 'interest' associated with a site; as well as to provide weight to considerations or recommendations that may have been previously recorded against the Site through on-site archaeological investigations provided by the NZAA and landowner.

9. BWS do not believe that the MSOS technical report, and hence S42A recommendation, has reasonably determined the significance of the Site – with the degree of significance being disputed through previous archeological assessments on the property – *a point noted in the applicable technical report (page 91)*.
10. In principle, BWS is of the opinion that the Proposed Waikato District Plan MSOS planning map notations need to be subject to a robust archaeological and cultural assessment rather than desktop assumptions in assigning significance (as well as the delineation of the feature). More so, such annotation needs to consider existing environmental factors when assigning a level of significance (i.e., level of modification to the site, underlying resource consents, Heritage Authorities legally established etc.). The current approach underpinning the s42A recommendation to pre-determine significance constraints on private properties without a *balanced evaluation* or landowner involvement is worrying to BWS Clients - and the impact this approach will have to land use development decisions across the Waikato District.
11. In undertaking more *balanced evaluation* (such as the underlying environment, the state of modification and or damage to the site or feature, appropriate mitigation in collaboration with landowners/ developers and Mana Whenua) an appropriate level of significance can be assigned without restricting the underlying land use development without substantive reasoning. Currently, the method used to assign MSOS to private landholdings across the Waikato District runs the risk of being inaccurate for the applicable feature, with the financial burden on the owner of the subject land – hence, BWS seeks a more collaborative approach.

Planners Report

12. The technical report informing the Planner’s recommendation is a desktop review of the Site and acknowledges that no on-site investigation was undertaken in evaluating the level of significance of the feature – as well as the spatial extent of the feature.
13. Based on the desktop assessment, the s42A report states that - in regard to *Submission 978*:

“Dr Kahotea comments that the information on MSOS S14/117 is sufficient to recommend that this site remains in place, however if further verification of location is needed it can be obtained either by field visit or GIS analysis of the contours. I therefore recommend that the submissions be rejected and the MSOS remains as located.”

14. In regard to *FS987*, the Processing Planner states:

“I recommend that further submission Blue Wallace Surveyors Ltd [FS987.1] be rejected. Cultural values are clearly evident, although present day subdivision development would have affected these features.”

15. For the reasons outline above, BWS do not agree with the Processing Planner’s recommendation, in that:
 - The recommendation clearly states that further verification is needed, and
 - The level of significance is not clearly evident – the recommendation only refers to “*cultural values*”.
 - No subdivision currently relates to the property.
16. BWS consider that such a discrete process being applied to significantly constrain the use of private land sets an undesirable precedent to the community at large across the Waikato District. Such a precedent is enabling to a level of unverified significance

being assigned to private land on which, in many instances, only a limited account has been given to quantifying the level of significance.

17. BWS contend that the current archaeological mapping provided by the New Zealand Archaeological Association's (NZAA) Archaeological Site Recording Scheme appropriately identifies sites of cultural interest, as well as validating the significance of such sites or features. At the time of development, appropriate and further assessment can be provided as to the level of significance for the Site, as well as to provide appropriate mitigation in collaboration between the landowner/developer, and Mana Whenua. If damage is proposed to occur to the archaeological site then the process set out under the application for an archaeological authority can be undertaken.
18. In regard to the potential for unrecognized sites of cultural interest to be adversely effected by a proposed development – any such application will still be required to assess the land for cultural significance as a component of the consenting process – along with Council being able to request such reporting as part of the s92 information request process.
19. Once a site has been appropriately and collaboratively assessed as being a MSOS – then at this point it is fair and reasonable for the Site or feature to be confirmed through annotation on the applicable planning map.

Existing Protection

20. BWS contend that significance be determined based on robust archaeological and cultural investigations. Such investigations are already mandated through the *Heritage New Zealand Pouhere Taonga Act 2014* and represent a clear understanding for all parties in regard to the significance of the Site – as well as the collaborative development of appropriate mitigation should a proposed development prove to have an effect on a MSOS.
21. In consideration of the existing *Heritage New Zealand Pouhere Taonga Act 2014* protection and process, BWS contend that assigning a level significance to Maori cultural sites located within land zoned for urban use be undertaken at the time of development planning (i.e., at the resource consent stage) as appropriate. Pre-determining a level of significance as advocated in the s42A report exposes landowners and developers to potentially inaccurate constraints being placed on land or projects.
22. In having the level of significance determined prior to a confirmed archaeological and cultural assessment lends itself to uncertainty and confusion to landowners.

Consistency

23. BWS support *submission 978* where it was stated “*WDC must undertake further balanced evaluation*” and subsequently consider that the Waikato District Council needs to maintain consistency when notifying culturally significant sites.
24. As indicated in the ODP Plan Change 17: *S42A Planning Report on Submissions and Further Submissions September 2016* regarding MSOS, a submission by Perjuli Developments Limited noted:

“Individual investigations can be undertaken as part of the subdivision consent process and will consequently determine whether an archaeological authority is required and how this will affect development. This approach tailors the investigation to the site as opposed to blanket investigation for a number of sites.”

The WDP already contains limited information on archaeological sites. Developers work with qualified people who are well aware of obligations under the NZHPT Act 2014 who along with Council can advise developers on requirements.

25. In response to the above submission, Council agreed that such an approach to determining the significance of cultural sites was appropriate in balancing the development rights of private landowners with that of cultural significance.

26. BWS consider that accessible information relating to recorded archaeological and culturally significant sites should determine annotations on the Proposed Waikato District Plan planning maps. If no record exists on the NZAA database – then collaboration between the landowner and Mana Whenua should take place prior to MSOS annotations being applied to a site.

Section 42A Officers Report Recommendations and Blue Wallace’s Response

27. The following comments are specific to the recommendation on FS987as sought by Blue Wallace Surveyors Limited.

Further Submission	Recommendation
<p>FS987.1 Blue Wallace Surveyors Ltd</p> <p><i>Blue Wallace Seek that the submission point is accepted – and the cultural significance notation on the PDP Planning Map is removed and not reapplied until the significance is confirmed.</i></p>	<p><i>I recommend that further submission Blue Wallace Surveyors Ltd [FS987.1] be rejected.</i></p> <p><i>Cultural values are clearly evident, although present day subdivision development would have affected these features.</i></p> <p>Reject submission point</p>
<p>S42A Recommendation not supported</p> <p>For the reasons provided in this statement of evidence, BWS do not agree with the Council Planner’s recommendation.</p> <p>BWS do not agree that it is appropriate to pre-determine a level of cultural significance for a site until a collaborative and robust archaeological and cultural evaluation has been undertaken based on all relevant considerations.</p> <p>All relevant environmental, cultural and landowner considerations need to form a <i>balanced evaluation</i> prior to a MSOS annotation being placed on private properties.</p> <p>BWS seek that MSOS annotations are not applied to private land without a preceding balanced evaluation.</p>	

28. In tabling this statement of evidence BWS has requested a time extension in regard to submitting copies of evidence for Hearing 20 – Maaori Sites of Significance & Maaori Areas of Significance for the Proposed Waikato District Plan (dated 10 July). This extension was agreed to by the Hearing’s Commissioner on the date of request.

29. Blue Wallace requests that their evidence be submitted to and accepted by Council by 5pm on Wednesday 15 July 2020.

Regards



Tim Lester
For Blue Wallace Surveyors Ltd