

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan

Hearing 20: Maaori Sites of Significance and Maaori Areas of Significance

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Dated: 29 June 2020



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List of submitters and further submitters addressed in this report.

Submitter	Submission number
Andrew and Christine Gore	330
Andrew Wilson	981
Brian Nabbs and Margaret Forsyth	978
Chris Yu	10
Elvin Priest	9
Federated Farmers of New Zealand	680
Harrison Grierson Consultants	343
Heather and Warren Parker	187
Heritage New Zealand Lower Northern Office	559
Jackie Colliar	493
John Kinghorn	88
Julie Caddigan	307
Malibu Hamilton	553
Mercer Residents and Ratepayers Committee	367
Michael Edmonds	504
Ngaati Te Ata	798
Ngaati Tamainupoo – K Huirama	962
Norris Peart	495
Rita Carey	261
Riverdale Group Limited	719
Ruruhira Cila Henry	812
Ruakiwi Graziers Limited	340
Sharp Planning Solutions Ltd	695
Sheryl Tukiri	188
Stephen John and Megan Lesley	148
Shelley Munro	55
Tainui o Tainui	942

Submitter	Submission number
Te Kopua 2B3 Incorporation	505
Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust	152
The Bardsley No 1 Family Trust	100
Turangawaewae Trust Board	984
Waahi Whaanui Trust	380
Waikato District Council	697
Waikato-Tainui	286

Further Submitters	FS No
<i>Blue Wallace Surveyors Ltd</i>	<i>1287</i>
<i>Federated Farmers</i>	<i>1342</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>1323</i>
<i>Mercury New Zealand Limited</i>	<i>1387</i>
<i>Mercury New Zealand Limited</i>	<i>1388</i>
<i>Ngaati Tamainupoo Ki Whaingaroa</i>	<i>1111</i>
<i>Ngaati Tamaoho Trust</i>	<i>1369</i>
<i>Pareoranga Te Kata</i>	<i>1035</i>

Further Submitters	FS No
<i>Riverdale Group Limited</i>	<i>1271</i>
<i>Te Whakakitenga o Waikato</i>	<i>1168</i>
<i>Turangawaewae Trust Board</i>	<i>1139</i>
<i>Watercare Services Ltd</i>	<i>1176</i>
<i>Whaingaroa Environmental Defence Inc Society</i>	<i>1276</i>

Please refer to Appendix I to see where each submission point is addressed within this report.

I Introduction

Ko Tainui Te Waka

Ko Waikato me Ngaati Maniapoto ooku Iwi

Ko Ngaati Whauroa, Ngaati Tamainupo, Ngaati Kinohaku, Ngaati Raarua ahau

Ko Te Kauri me Waingaro, Oparure ngaa Marae

Ko Eketone raua Ko Joseph, Ko Atutahi, Ko Hall, ooku Tuupuna

Ko Sheryl Paekau taaku ingoa

No Ngaruawahia taaku kaainga.

1.1 Qualifications and Experience

1. My name is Sheryl Ann Wikitoria Paekau. I am employed by Waikato District Council as a Policy Planner within the Resource Management Team.
2. I have been employed for 35 years in various local government roles through the amalgamation of local councils here in Ngaruawahia, which became the Waikato District Council. For the last 10 years, I have been employed as a Policy Planner dealing with the District Plan Review, having particular focus on Maaori planning issues. In this role I have undertaken the following tasks and responsibilities: to use statutory legislation to recognise and provide for section 6(e) matters of significance to Maaori, in relation to cultural and traditional sites, waahi tapu, waahi tupuna and other taonga.
3. I have a Bachelor Degree in Iwi Environmental Management from Te Waananga o Aotearoa and started a Post Graduate Degree in Maori Heritage Management.

1.2 Code of Conduct

4. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

1.3 Conflict of Interest

6. I confirm that I have no real or perceived conflict of interest other than I am Maaori and I have a strong interest in the identification and preservation of cultural history. Making connections through Whanau, whakapapa and whenua is so important to the continuity of any culture, knowing who you are and where you come from. In this journey I have conversed with many people in our district and shared their stories about the places which are important to them.
7. However, I do wish to declare that I have a family relationship with submitters in Raglan through my deceased husband, Matt Hori Paekau. My daughter Keren Paekau submits on

behalf of Te Kopua 2B3 Incorporation as a Board Member, and my husband's niece, Rolande Paekau, submits on behalf of Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust. They both whakapapa to other submitters.

8. I also wish to declare my relationship with Commissioner Weo Maag. I do not know him well, but we have established that our grandmothers are sisters, both being from the Eketone whanau from Te Kuiti. The only association I have had with him in relation to the Proposed District Plan is that he was the Chairperson of the Maniapoto Māori Trust Board when I presented the draft Waikato District Plan, which included sites of significance to iwi in 2018.
9. I also have hapuu connections through the Eketone and Patene whanau who not only whakapapa through Maniapoto hapuu but also to Ngaati Tamainupo in the Waikato District. There are submitters from Tamainupo. We are related through the hapuu by marriage.
10. I am also a ratepayer and live within the district.

1.4 Preparation of this report

11. The scope of evidence relates to evaluation of submissions and further submissions received in relation to Maaori Sites of Significance (MSOS) (Appendix 4A) and Maaori Areas of Significance (MAOS) (Appendix 4B) in the Waikato District.
12. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
13. I have relied on technical and cultural assessments undertaken by Dr Des Kahotea and these are appended to my report.

2 Scope of Report

2.1 Matters addressed by this report

14. This report is prepared in accordance with section 42A of the RMA. The report considers submissions that were received by the Council in relation to Maaori Sites of Significance (MSOS) and Maaori Areas of Significance (MAOS) identified and mapped on the Proposed District Planning Maps and listed in Chapter 30 Schedules 30.3 and 30.4. The report also addresses submissions on rules in zone chapters that deal with MSOS and MAOS. Submissions on provisions in the zone chapters in relation to the earthworks rule provisions, that mention Maaori sites and areas of significant, are also addressed.
15. Although this matter is not addressed in this report, it is important to make clear that the MSOS and MAOS are primarily identified within the Proposed Waikato District Plan for protection and to foster appreciation of the district's historical heritage. The scheduling of an MSOS or MAOS site does not afford access to private property unless these sites are publically owned properties and reserves owned by government departments, in which case access would be signposted.
16. There have been over 400 sites identified on the Proposed District Plan maps and listed in the MSOS and MAOS Schedules. This number compares to 7 sites listed in the Waikato Operative District Plan (Waikato Section) and 2 sites listed in the Franklin Section.

2.2 Overview of the context of Maaori Sites and Maaori Areas of Significance

17. The Resource Management Act 1991 includes under the definition of 'Historic Heritage' sites of significance to Maaori which includes waahi tapu and surroundings associated with the natural and physical resources. It can include historic sites, structures, places and areas and pre-1900 archaeological sites. A MSOS is a delineated paa, whereas a MAOS has been aligned with the property boundary on which it is located and includes a cluster of features associated with Maaori activity such as pa, borrow pits, urupa etc.
18. Chapter 2 Tangata Whenua includes Objectives and Policies that address matters related to planning issues for MSOS and MAOS.
19. Strategic Objective 2.11 Tautoko te Whakatipuranga supports Iwi aspirations to grow a prosperous, healthy, vibrant, innovative and culturally strong people who can have that relationship with their ancestral lands, water, sites, waahi tapu, and other taonga, in accordance with Resource Management Act, the Waikato Regional Policy Statement, other legislation and through hapuu and whakapapa.
20. Policy 2.15.1 Ngaa Taonga Tuku Iho is also relevant:
 - (a) *Ensure subdivision, use and development does not compromise the cultural and spiritual significance of the areas, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora and fauna.*
 - (b) *Areas and sites of significance to Maaori, including waahi tapu sites and waahi tapu areas are protected from adverse effects of development or activities on those sites.*
21. The Objectives and Policies support Maaori kaupapa and kaitiakitanga, required under statutory requirements, and also gives Maaori that wairuatanga (spirituality), the whanaungatanga (hapuu), whenuatanga (land) and whakapapa (family), connections to the footprint created through cultural history.
22. Chapter 30.3 and 30.4 contains the Schedules of MSOS and MAOS and the Proposed District Planning Maps identify these sites within the Waikato District. There are many sites of significance that may be important to Iwi/Mana whenua that are not identified in these schedules. This is an ongoing project, therefore opportunities through development of Iwi/Hapuu management plans and community projects can support further identification.
23. The rules on Maaori sites and areas of significance are currently contained in the PWDP in all the zone chapters. However, the National Planning Standards will require a format change so that the rules, schedules and other related material are placed together in a separate chapter for sites and areas of significance to Maaori.

2.3 Statutory Requirements

24. The district council has legal obligations with respect to Tangata Whenua when managing the natural and physical resources of the district. The obligations are set out in the Resource Management Act 1991 (RMA) as follows:
 - a. To recognise and provide, as a matter of national importance, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga - section 6 (e)
 - b. Have particular regard to kaitiakitanga - Section 7 (a)
 - c. Take into account the principles of the Treaty of Waitangi - Section 8
 - d. Have regard to any relevant planning document recognised by an Iwi authority -Section 74 (2A)
 - e. The requirement to consult with Tangata Whenua during the preparation of a proposed plan, including any proposed plan changes - Schedule 1 cl.(3)(d).

25. Chapter 10.2 of the Waikato Regional Policy Statement recognises and provides for the relationship of Tangata whenua and their culture with their ancestral lands, water, sites, waahi tapu and other taonga.
26. The combination of the Tangata Whenua chapter 2, Chapter 30 (30.3 and 30.4), and earthworks rules within an MSOS or MAOS within the zones all give effect to the Waikato Regional Policy Statement and RMA 1991 in that they identify, protect, promote and manage 'Historic and Cultural heritage' in the Waikato District. This is an ongoing action to recognise and provide for the relationship of Maaori with their resources and taonga. The District Plan Review primarily concentrated on sites of concern that were raised during engagement during the development phase of the Proposed District Plan.

2.4 Waikato River Joint Management Agreement (JMA) 2010

27. This agreement provides Council with a relationship with Waikato-Tainui to share the exercise of functions, duties and powers under the Local Government Act 2002, the Resource Management Act 1991 and the Waikato-Tainui Deed of Settlement in relation to the Waikato River and enabling legislation.
28. Council and Waikato-Tainui share areas of commonality when it comes to structure, constituency, democratic appointment, geographic influence, natural resource management, political, social and economic imperatives and long term generational planning.
29. The following schedule - Management of the Sites of Significance - was the final schedule to be agreed upon in the Joint Management Agreement with Waikato-Tainui that was adopted by Council in November 2015 (Appendices 3A and 3B).
30. When identifying MSOS and MAOS for the District Plan Review, Council has worked in conjunction with the sites that apply to this schedule.

Schedule F to the Joint Management Agreement with Waikato Tainui - Management of Maaori Sites of Significance

Sites to which this Schedule applies

Subject to paragraph 9 of this Schedule, the processes described in this Schedule apply specifically to:

- a) those Maaori Sites of Significance that were returned to Waikato-Tainui as part of the River Settlement, and;
- b) any unidentified Maaori Sites of Significance located on land owned by the Crown or Waikato District Council, within the area described in the River Settlement Act as the Waikato River and its catchment; and
- c) Maaori Sites of Significance listed within Regional and District Plans;
- d) Other Maaori sites, as agreed by the Parties.

(The above agreement does not negate Council's responsibility under the above statutory legislation obligations.)

3 Submissions received

3.1 Overview of submissions

31. Council received 34 primary submissions, with 90 submission points, on MSOS and MAOS issues (Appendix I).
32. Council received 13 further submissions, with 78 further submission points, on MSOS and MAOS.
33. The most common submission topics were:
 - a. Support and retention of Schedules 30.3 MSOS and 30.4 MAOS and Map identification (8)
 - b. Addressing MSOS to amend or add locations (30)
 - c. Support Earthworks Rule (9)
 - d. Amend Earthworks Rule (27)
 - e. Submissions by Waikato District Council to amend earthwork rules (10)
 - f. Other submissions (6).
34. Mercury made various further submissions opposing original submissions in the PWDP, on the basis that no flood maps were available at the time of further submissions. MSOS and MAOS contain no reference to natural hazards, and I consider it unnecessary to cover natural hazards in this hearing because I consider them irrelevant to the matters considered in this report. It would be better to await hearings on Stage 2 of the PWDP concerning natural hazards provisions. The Hearings Panel can consider any implications for MSOS and MAOS at that time if necessary. These recommendations are included in Appendix I, but there is no further discussion on these further submissions in this report.

3.2 Structure of this report

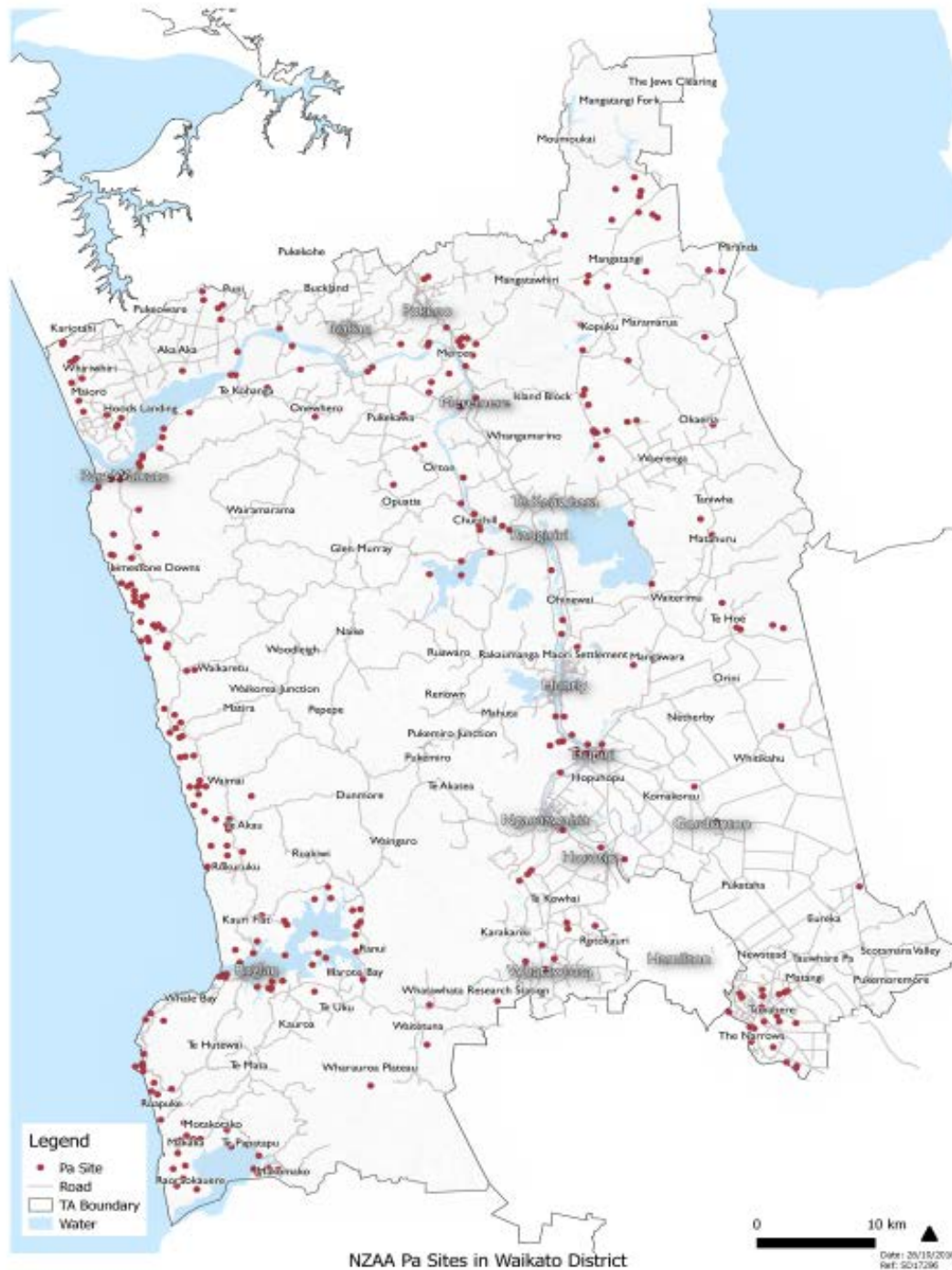
35. I have structured this report to provide a brief background to this topic and to address each of the above groups of submissions.

4 Background

4.1 Introduction

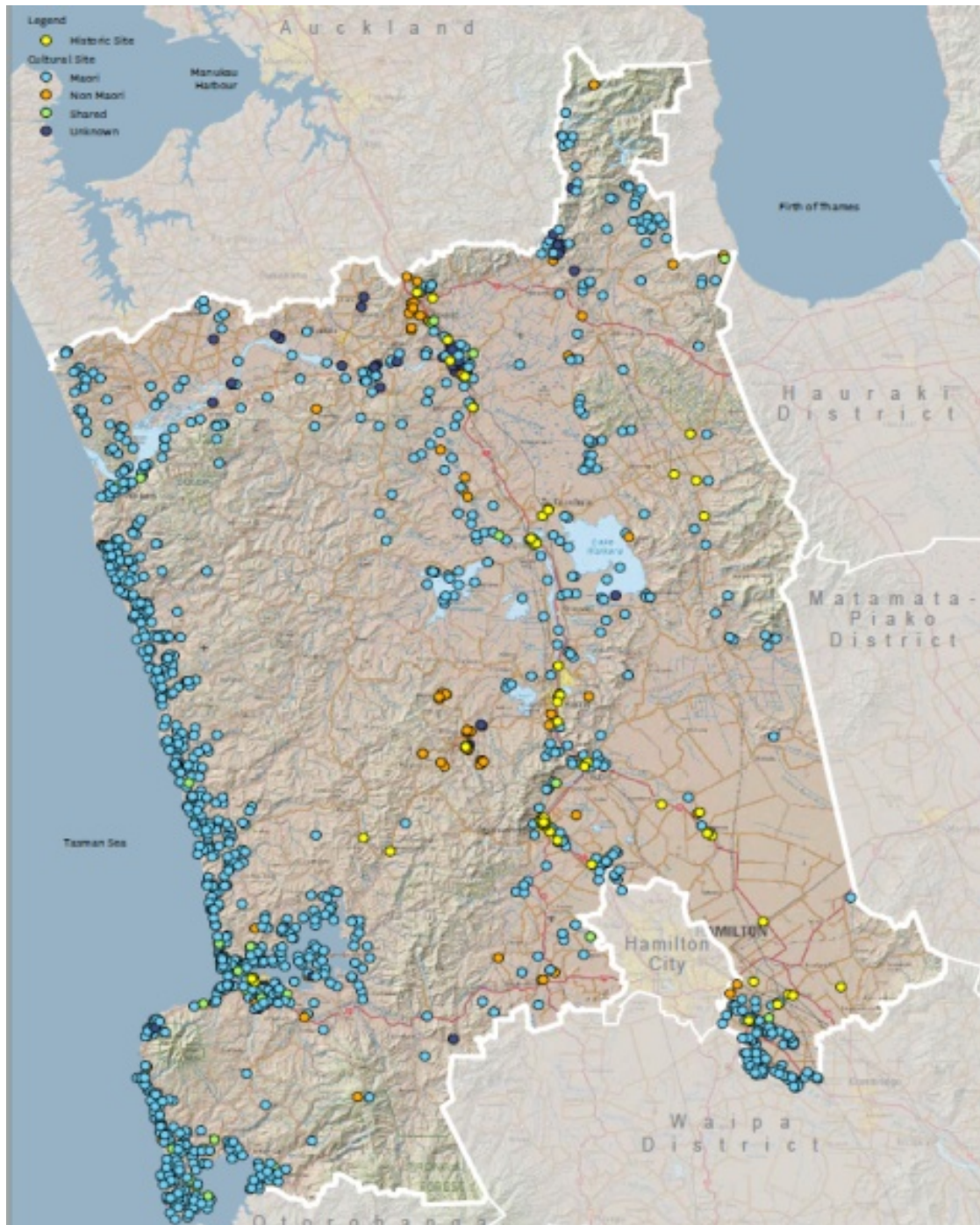
36. The district council has a legal obligation under section 6(e) of the RMA 1991 and Regional Policy Statement section 10.2, to “recognise and provide for...” the relationship of Maaori to their taonga, therefore it requires work to be undertaken throughout the district. In order to do this, identification, location and recognition of the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, was needed.
37. The New Zealand Archaeological Association (NZAA) has identified and registered over 2000 archaeological sites in the Waikato District. These are primarily pre-1900 Maaori sites made up of several Paa, kaainga, ditches, trenches, pits, terraces, middens and other sites. Many of these latter features are often part of the wider Paa site area. After the project was undertaken, the Iwi -Waikato-Tainui - asked for Paa sites to be identified as significant to Maaori, so this has been the primary focus of the project and the identification was to be included in the district plan review.

Figure I: NZAA paa sites



38. The NZAA evidence data of registered archaeological sites identified two main cultural landscapes of Maori settlement patterns on the west coast and along the tributaries of the Waikato River. (Pre-1900 archaeological sites are predominately Maori sites). From this data, approximately 340 Paa sites were separated out and listed in Chapter 30 Schedule 30.3 and mapped on the Proposed Waikato District Planning Maps as Maori Sites of Significance.

Figure 2: Waikato District Archaeological Landscapes



39. There are also approximately 80 MAOS identified and listed in Chapter 30 Schedule 30.4 and mapped on the Proposed Waikato District Planning Maps. 50 of these sites are Waahi Tapu sites that were returned to Waikato-Tainui through the Waikato River Settlement Act 2010 and have been carried over from the Waikato District Operative Plan (while these were identified in the Operative District Plan, there were no rules associated with them). The remainder of these areas are properties that have a significant amount of registered archaeological sites of known Maori history, identified waahi tapu sites from Heritage New Zealand and urupaa. The majority of these areas are on public property and administered by government agencies.

40. I have undertaken research into these sites through a desktop review of NZAA recorded sites completed by reputable archaeologists. I believe that their records are a wonderful resource that preserves Maaori archaeological sites for New Zealand history. Their records of site visits, sketch maps and photos support Maaori settlement. Artefacts found and preserved by land owners with some placed in museum care support this resource also. Indigenous settlement around the world has not left many landmarks that have been preserved as wonders of world, and New Zealand Maaori sites fit this category. The landscape was left with Paa sites, ditches, terraces, trenches, kumara and borrow pits, tuahu stones, urupaa and burial caves. Maaori settled 'in' the landscape and moved seasonally for the resources that nature provided.
41. Written accounts have been taken from history books, reports and articles by consultants providing cultural and archaeological assessments, and have been used. Valuable documentation is also provided through the Māori Land Court minutes which can provide some korero evidence to substantiate reference to Maaori sites. I have also visited many sites and taken photographs and read of the works of people who have walked the paa sites and given their notes for us to learn Maaori history - archaeologists and historians like Pei Te Hurinui Jones, Finlay Phillips, Leslie Kelly, Owen Wilkes, Ian Lawlor, Des Kahotea, Warren Grumbley, Alexy Simmons and many others. Support and input is gained also by talking to kaitiaki and kaumatua to share knowledge and stories. It is an ongoing project that still needs the sites to be worked through with mana whenua of today.
42. It is difficult for Iwi and hapuu to attribute their cultural values to these sites. The reasons are mainly alienation from them due to land confiscation for European settlement. Now the sites are mostly in private ownership and Iwi and hapuu do not have access to them. Therefore association is in terms of ancestral relationships and history of occupational settlement. Identification of sites provides markers for association of place. It is their desire and the desire of heritage enthusiasts to build appreciation for the cultural history of the district in the future.
43. Sometimes we only have one chance of preserving heritage because it is a finite resource and its removal or change is permanent. Change in the historic environment is inevitable and peoples' responses to social, economic and technological change happens, therefore it is imperative to identify, protect, promote and manage the resources that the community wants to preserve for future generations. Council sees this as an ongoing process.
44. Heritage New Zealand raises an issue in their submissions of the need for Council to ground truth the information of the Maaori sites and areas of significance. I believe that this is unnecessary because there are enough reasonable grounds that provide Maaori markers for association of place. Many sites, because of their rural and coastal locations, have not, apart from farming practices such as fences, farm tracks and grazing, been altered. Most public sites are preserved in parks and reserves and have very little modification. It would be unreasonable to use public money to undertake ground truthing of these sites when development may never take place. If an applicant wanted to undertake earthworks and modify or destroy a site of significance, that would be the time that detailed cataloguing and recording should take place, and the applicant should make an application to Heritage New Zealand for an Authority to do so. That authority would assess that activity against archaeological and Maaori cultural values reports.
45. I believe that it is so important to have sites identified and mapped on the district planning maps so that they serve as an alert flag, especially for subdivision development and for engagement. Too many sites have been destroyed in the past because of the progress of economic development and the lack of identification by Iwi/mana whenua.
46. During this project I have come to the opinion that in identifying paa sites, we are marginalising the space that a hapuu occupied. They may have had some buildings on the elevated hill, but they also had vast gardens and carried out activities of village life on the surrounding lands. The numerous ditches, trenches, and terraces support this. Of course,

where there is a paa there will also be urupaa (burial grounds). It is something to keep in mind when undertaking development.

47. The draft Proposed District Plan initially identified a 100m buffer around NZAA identifier dots in order to more fully protect the sites. However this was challenged as being not sufficiently accurate (especially as Council became aware that some of the dots were in the incorrect location). In response to these concerns, Dr Kahotea was engaged by Council to undertake an assessment and identify key sites and areas of significance to Maaori and areas likely to contain cultural features worthy of protection. His analysis informed the Proposed District Plan as it was notified.

4.2 Understanding the importance of defining cultural heritage values

47. Dr Kahotea has presented a very clear explanation about the importance of the relationship of Maaori to define cultural values:

“.....what distinguishes Maaori heritage, is the association, references and links to tuupuna (ancestors). This association, reference and link to ancestors defines the specificity of intangible heritage places and also identity for whanau, haapu and iwi. Hence the acknowledgement of terms tangata whenua, mana whenua and kaitiakitanga in the RMA 1991 which assume a role based on mantle of succession by descent from ancestors and a legacy of mana and tapu. This is elaborated in section 6(e) of the RMA Act 1991 ‘the relationship of Maaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.’”¹

5 Support and retention of Schedule 30.3 MSOS, 30.4 MAOS, Map identification

5.1 Introduction

48. Schedules 30.3 and 30.4 contain the details of MSOS and MAOS respectively. Schedule 30.3 comprises a table detailing the following information for each site:
- a) Site number and planning map reference
 - b) Type of feature e.g. paa
 - c) Site name and location area
 - d) Significance / Feature of Interest.
49. Schedule 30.4 contains the following information:
- a) Item number
 - b) Site
 - c) Significance.
50. All MSOS and MAOS are mapped on the district plan maps with identifiers to enable linking back to the appropriate Schedule.

¹ Technical Report Page 5 para 2. (Appendix 2A) D T Kahotea PhD

5.2 Submissions

51. 8 submission points were received supporting the schedules, but there were no further submission points.

Submission Point	Submitter	Summary of Submission
188.4	Sheryl Tukiri	Retain Schedule 30.3 Maaori Sites of Significance.
152.7	Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust	Retain the Maaori Site of Significance that contains the Ururpa-Rangipu on the planning maps (located on Riria Kereopa Memorial Drive, Raglan).
504.3	Michael Edmonds	Retain and protect Maaori sites of significance in Schedule 30.3.
504.4	Michael Edmonds	Retain and protect Maaori sites of significance in Schedule 30.3.
505.3	Te Kopua 2B3 Incorporation	Retain and protect Maaori sites of significance in Schedule 30.3.
505.4	Te Kopua 2B3 Incorporation	Retain and protect Maaori sites of significance in Schedule 30.3.

5.3 Analysis

52. The above submitters have commented on the scope of MSOS and MAOS to retain the schedules in the district plan that identify Maaori heritage in the Waikato District for protection and preservation. The schedules in Chapter 30 recognise and provide for the cultural relationship of Maaori history.
53. Submitter Sheryl Tukiri [188.4] likes how the Council has started to protect Maaori heritage for future generations and support is extended for the scheduling approach taken.
54. There are no primary submissions that seek to delete Council's approach to identifying and providing provisions to acknowledge Tangata Whenua's relationship with their Maaori sites and areas of significance in the Waikato district. Identifying the MSOS and MAOS gives effect to the Waikato Regional Policy Statement Policy 10.1 Managing historic and cultural heritage, Policy 10.2 Relationship of Maaori to taonga and Policy 10.3 Effects of development on historic and cultural heritage.

5.4 Recommendation

55. I recommend, for the reasons given above, that MSOS and MAOS be retained, and that the Hearings Panel:
- Accept in part** Sheryl Tukiri [188.4], Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust [152.7], Michael Edmonds [504.3] and [504.4] and Te Kopua 2B3 Incorporation [505.3] and [505.4], to the extent that they support the retention of MSOS and MAOS schedules, and their identification. These submissions can only be accepted in part due to changes I am recommending in response to other submissions.

5.5 Amendments

56. There are no amendments recommended in this section of the report arising from these submissions.

6 Amending or adding MSOS

6.1 Introduction

57. This section considers submission points asking for changes to the MSOS schedule, to add new sites and to change details of listed sites.

6.2 Submissions

58. 30 submission points were received and 25 further submission points were received.

Submission Point	Submitter	Summary of Submission
9.2	Elvin Priest	No specific decision is sought, but the submission provides further information about Maaori Site of Significance S14/84, on the property at 524B State Highway 1, Tamahere.
<i>FSI 323.154</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 9.2</i>
10.1	Chris Yu	Amend the planning map to reflect the extent and status of the Paa site on the property at 16 Shelby Lane, Tamahere OR Delete the Paa site from the property at 16 Shelby Lane, Tamahere if further investigation indicates no Paa site exists.
<i>FSI 323.155</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 10.1</i>
88.1	John Kinghorn	Amend the location of Maaori Site of Significance S14/82 on the property at 214 Bell Road Whatawhata to match the New Zealand Archaeological Association records (attached to the submission).
<i>FSI 323.156</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 88.1</i>
100.2	The Bardsley No 1 Family Trust	Delete the Maaori Site of Significance S14/56 from the property at 31 Birchwood Lane, Tamahere.
<i>FSI 323.157</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 100.2</i>
148.1	Stephen John & Megan Lesley Ronke	Amend the buffer associated with the Maori Site of Significance (Paa) S14/75 to exclude the property at 64C Houghton Road, Whatawhata.
<i>FSI 323.158</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 148.1</i>
152.8	Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust	Add the waahi tapu located at the end of Riria Kereopa Memorial Drive (on Te Kopua 2B3 Inc) to Schedule 30.3 Maaori Sites of Significance.
<i>FSI 323.159</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 152.8</i>

187.1	Warren & Heather Parker	Add the property opposite 24 Kernott Road, Horotiu to Schedule 30.4 Maaori Areas of Significance.
<i>FS1323.146</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support 187.1</i>
261.1	Rita Carey	Amend the approach to Maaori Sites of Significance through the following: Purchase the land from landowners; Fence the areas off at Council/Iwi cost; Council/Iwi to maintain those areas; Promote acknowledgement of the areas; Reward landowners for past care; Incentive Programmes; and Council/Iwi fund initial outlay cost such as fences.
<i>FS1369.7</i>	<i>Ngaati Tamaoho Trust</i>	<i>Oppose 261.1. -Maaori sites of significance need a buffer as no sites are in isolation, and refer to a wider landscape.</i>
<i>FS1108.148</i>	<i>Te Whakakitenga o Waikato</i>	<i>Oppose 261.1 - Amend the approach to maaori sites of significance - appears the council is determined to penalise, persecute and generally make life hard for landowners for having a national treasure on their land.</i>
261.2	Rita Carey	Amend the Maaori Sites of Significance on the submitter's property by: Reducing the size of the buffer area; Locating them in the correct place; and Re-considering the significance of the sites.
<i>FS 1323.160</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 261.2</i>
286.18	Waikato Tainui	Amend the description of 333 Old Taupiri Road to remove the incorrect reference to a Paa site.
<i>FS1035.24</i>	<i>Pareoranga Te Kata</i>	<i>Support 286.18</i>
307.2	Julie Caddigan	Amend the specific location for Maaori Site of Significance S14/5 Te Uhi Paa, Exelby Road, Rotokauri to the correct coordinates.
<i>FS1323.161</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 307.2</i>
307.3	Julie Caddigan	Amend Maaori Site of Significance site S14/5 Te Uhi Paa, Exelby Road Rotokauri to be reduced to reflect the correction location and extent of the Paa site.
<i>FS1323.162</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 307.3</i>
307.4	Julie Caddigan	Delete the Maaori Site of Significance site S14/5 at Exelby Road, Rotokauri from Lot 1 DPS 80361 if it is found that the paa site is located in the swamp area by the lake edge.
<i>FS1323.163</i>	<i>Heritage New Zealand</i>	<i>Oppose 307.4</i>

	<i>Pouhere Taonga</i>	
307.5	Julie Caddigan	Amend the Proposed District Plan to reflect further investigation of Maaori Site of Significance S14/5 at Exelby Road, Rotokauri, given that the New Zealand Archaeological Association report states there are no visible remains of the paa site and the site has been destroyed.
340.1	Ruakiwi Graziers Ltd	No specific decision sought, however submission states the Maaori Sites of Significance S13/119 and S13/141 on Jefferis Road are unconfirmed.
367.52	Mercer Residents & Ratepayers Committee	Add Te Paina Pa, Mercer Recreation Reserve, Riverbank Road, Mercer to Schedule 30.4 Maaori Areas of Significance.
<i>FSI 323.147</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support 367.52</i>
495.1	Norris Peart	Amend the boundary of the Maaori Site of Significance overlay R14/51 at 274 Okete Road, Raglan so that the southern boundary is aligned with the existing fence protecting the site.
<i>FSI 323.164</i>	<i>Heritage New Zealand</i>	<i>Oppose 495.1</i>
559.239	Heritage New Zealand Lower Northern Office	Amend Schedule 30.3 - Maaori sites of Significance by extending SS60 as depicted in Attachment 4 of the submission (refer to the submission).
559.240	Heritage New Zealand Lower Northern Office	<p>Add a new schedule to the Proposed District Plan entitled Schedule 30.6 – Significant Waahi Tapu and Waahi Tapu areas and include the following Heritage New Zealand Pouhere Taonga listed waahi tapu sites:</p> <p>Te Aukati ki Mangatawhiri - Waahi Tapu Heritage New Zealand list number 9632, Meremere - Waahi Tapu Heritage New Zealand list number 9609, Te Teo Teo - Waahi Tapu Heritage New Zealand list number 9607, and Rangiriri- Waahi Tapu Area Heritage New Zealand list number 7720.</p> <p>AND</p> <p>Add maps in the District Plan Maps showing the same extent as the Heritage New Zealand Pouhere Taonga listing as included in Attachment 6 (refer to submission).</p>
798.23	Ngaati Te Ata	No specific decision sought, but submission opposes the inclusion of the Pa in Pokeno within proposed future urban or industrial zones.
<i>FSI 387.1286</i>	<i>Mercury NX Limited for Mercury D</i>	<i>Oppose 798.23.</i>
812.1	Ruruhira Cila Henry	Amend the Proposed Waikato District Plan to include the Karamu Paa and Urupa as waahi tapu on the corner of Gordonton Road and Piako Road.

812.2	Ruruhira Cila Henry	Amend the Proposed Waikato District Plan to keep the Komakorau Stream as a historical area.
719.1	Riverdale Group Limited	Amend the extent of Maaori Site of Significance S15/25 shown on the Planning Map, to be consistent with the registered covenant as shown on the Scheme Plan of subdivision at Lot 1 DP 324809 (102 Hooker Road) and Lot 2 DP 324809 (124 Hooker Road) Tamahere (see maps attached to submission); AND Amend Schedule 30.3 Maaori Sites of Significance so that S15/25 is located on 102 Hooker Road, Tamahere rather than 124 Hooker Road, Tamahere.
<i>FS1323.153</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 719.1. HNZPT considers that it is appropriate to have additional protection under a District Plan for sites recognised as culturally significant to ensure the retention of cultural values and give effect to s6 and s7 of the RMA.</i>
719.2	Riverdale Group Limited	Delete the Maaori Area of Significance SS65 from 124 Hooker Road, Tamahere; OR Amend Rule 22.2.3.2 Earthworks - Maaori Sites and Maaori Areas of Significance, to allow earthworks associated with the construction of permitted activities within the Rural Zone (e.g. dwellings, sheds etc.).
<i>FS1323.152</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 719.2. HNZPT considers that it is appropriate to have additional protection under a District Plan for sites recognised as culturally significant to ensure the retention of cultural values and give effect to s6 and s7 of the RMA.</i>
962.1	Ngaati Tamainupo	Add protection on some of the significant burrow pits on the properties at 5851 Great South Road and 2831 River Road Ngaruawahia, and any other section the submitter deems to be of high cultural significance (e.g. proximity to Puke I a hua and size).
<i>FS1111.2</i>	<i>Nga Uri o Tamainupo ki Whainagaroa</i>	<i>Support 962.1</i>
<i>FS1323.151</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support 962.1</i>
978.1	Brian Nabbs and Margaret Forsyth	No specific decision sought, although submitter expresses concerns in respect to the Maaori Site of Significance (S14/117) on the property at 212D Newell Road, Tamahere.
<i>FS1287.46</i>	<i>Blue Wallace Surveyors Ltd</i>	<i>Support 978.1BWS agree with the submitter that further archaeological assessment needs to take place before cultural significance certainty can be applied to the property.</i>
<i>FS1323.165</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 978.1</i>
978.2	Brian Nabbs and Margaret Forsyth	Reconsider the significance of the Maaori Site of Significance (S14/117) at the property at 212D Newell Road, Tamahere.

		AND Amend the extent of the buffer if the site is not unequivocally proven as significant.
<i>FS1323.166</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 978.2</i>
978.3	Brian Nabbs and Margaret Forsyth	Reconsider the Maaori Site of Significance (S14/117) at the property at 212D Newell Road, Tamahere; AND If the site is not adequately significant or sufficiently proven, then amend the Proposed District Plan to enable the activities permitted in the Country Living Zone to be permitted activities on this site.
<i>FS1323.167</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 978.3</i>
981.1	Andrew Wilson	No specific decision sought, but the submitter is supportive of recognising Maaori cultural and spiritual values, however seeks more clarity regarding Maaori Site of Significance R14/52 at Ryan Road, Te Akau South.

6.3 Analysis

59. The above 30 submissions are either approached individually or grouped, depending on the summary of submission and the reason provided for the submission. The submissions are related to particular sites of significance that have been listed in the schedules in Chapter 30.3 and 30.4 and included on the Proposed District Planning maps. The majority of these submissions received have been field-visited and assessed by a Consultant Archaeologist/Maaori Anthropologist, Dr D T Kahotea, and I have relied on his assessment and recommendations (appended to this report). I have cross-referenced each submission addressed to his report in *Appendices 2A & 2B* (Waikato Proposed Plan Maaori Sites of Significance and Areas of Significance - Technical Report June 2020) with a [REF – Section xx] that refers to each section matter. Where a site visit was not able to be scheduled, Dr Kahotea he has provided a desktop review based on the best available information. Cultural assessment comments are also included.
60. I provide my comments in regard to these submissions, followed by Dr Kahotea's recommendation and then my recommendations to his comments.

6.4 Requests to amend MSOS locations

61. Submitter Chris Yu [10.1] (Reference to NZAA S14/85 PAA) asks to amend or delete the Paa site S14/85 from 16 Shelby lane, Tamahere if further investigations prove it does not exist. On 17 March 2020 a property site visit was made by myself and Dr Kahotea, and the matter was discussed with Mr Yu. Mr Kahotea's pre-examination of NZAA data and aerial imaging show the site to be further (northwest) along the same bank of the Putaorangihoko Stream. A visual check along the property edge of the embankment of Mr Yu's property showed this to be correct. Dr Kahotea has submitted an update report to NZAA of the correction and provides information on its relocation [REF – Section 2].
62. On the basis of the recommendation by Dr Kahotea that S14/85 be removed from 16 Shelby Lane, Tamahere, Lot 3 DP 531648, I recommend that the submission [10.1] be accepted and

be amended as per Dr Kahotea's recommendation. I recommend that the further submission from Heritage New Zealand Pouhere Taonga's [FS/323.155] be rejected because this site was incorrectly identified. NZAA is being advised of the error.

63. Submitter John Kinghorn [88.1] (Reference to NZAA S14/82 PAA) has asked to amend the reference to the Paa on the property of 214 Bell Road, Whatawhata. A recent subdivision development has taken place and is still being modified by earthworks. The accidental discovery protocol would have been initiated if earthworks had uncovered anything. It was found that there were no recorded archaeological sites identified on the Waikato Operative District Planning maps and initial contact with local iwi to identify any cultural significance at the time of lodgement received no response. There has been no evidence found during the development. A site visit was made on the 11 March 2020 by Dr Kahotea and myself. NZAA data indicates that the Paa site maybe a further 300 metres northwest along the Waipa River. There is still an archaeological reference in relation to the ditch identified on the Waipa River bank, but the site does not relate to a Paa site [REF – Section 3].
64. Regarding the recommendation by Dr Kahotea that S14/82 be deleted as an MSOS - it cannot be replaced by the paa in the current NZAA recorded location due to a lack of scope provided by submissions and I support this. As such, I recommend that the submission be accepted and that the planning map and that MSOS Schedule 30.3 references be amended accordingly. I recommend that the further submission Heritage New Zealand Pouhere Taonga's [FS/323.156] be rejected. The location of this site appears to be an error and the modification of the current subdivision development does not provide enough visual evidence of a Paa site.
65. Submitter Medihah Bardsley on behalf of the Bardsley No 1 Family Trust [100.2] (Reference to NZAA S14/56 PAA) asked to have the MSOS deleted from the property at 31 Birchwood Lane, Tamahere because Waikato District Council acquired part of their land for the link road (Designation M106) between Birchwood Lane and State Highway 1 Tamahere. This took away part of the Paa site NZAA S14/56 that joined the Bardsley property. The remainder of the Paa site is still on the other side of the link road. Because this is a project that is still in progress, records and details are still to be completed. Dr Kahotea and I undertook an onsite visit and discussed with the submitter the concerns raised in her submission. The visit took place on the 17 March 2020 and photos were taken. [REF – Section 4].
66. The recommendation by Dr Kahotea is that the link road for Designation M106 will alter the boundary of the Bardsley's property with the NZAA S14/56 Paa site. He said that he was not able to access the plans and legal titles for the new roadway to acknowledge the changes to the land titles surrounding the paa. The change to the new title will meet the submission request for Lot 2 DPS 75496. The road now separates the property from the paa and the Bardsleys' property.
67. I therefore recommend that the submission be accepted in part and an amendment be made to the property on the planning map. This amendment does not affect the MSOS Schedule 30.3, S14/56 details of the Paa site. I recommend that the further submission from Heritage New Zealand Pouhere Taonga's [FS/323.157] be rejected, because major alterations were made to part of the Paa site for a link road to State Highway 1.
68. Liam McGrath on behalf of Mercer Residents & Ratepayers Committee [367.52] submission has asked Te Paina Paa to be added as an MSOS, referencing that it was included in the Franklin District Plan - located on the Mercer Recreation Reserve, Riverbank Road, Mercer. Te Paina is not registered as a paa site by NZAA but it does register a known cultivation

area and papakainga NZAA S12/273. The paa is already included on the planning maps as an MSOS. This reference is listed in MSOS Schedule 30.3. Te Paina Paa has also been listed as an MAOS in Schedule 30.4 Reference SS73. On 12 March 2020 an onsite visit was arranged, where we met with the submitter and members of the Mercer Residents and Ratepayers Committee and Kaumatua. The purpose was to gather information to check the notations made on the proposed planning maps.



69. Kaumatua shared korero and a painted copy of the original Mangatawhiri or Te Paina Paa that was originally located at the north end of the area. The Paa was later moved south in what is known as the Mercer Recreation Domain because of continual flooding, however they still used the northern area for crop cultivations. Princess Te Puea Herangi built her house and papakainga (community whare) on the adjacent property of Lot 90. Dr Kahotea's research gives a descriptive picture of Te Paina before the Te Puea relocation to Ngaruawahia after 1921 [REF – Section 11].
70. Dr Kahotea recommends further research to define a boundary for the kaainga separate from the gardening area. One is suggested in Figure 1 of the consultant's report.
71. I recommend that the submission be accepted, however no changes to the maps are necessary.

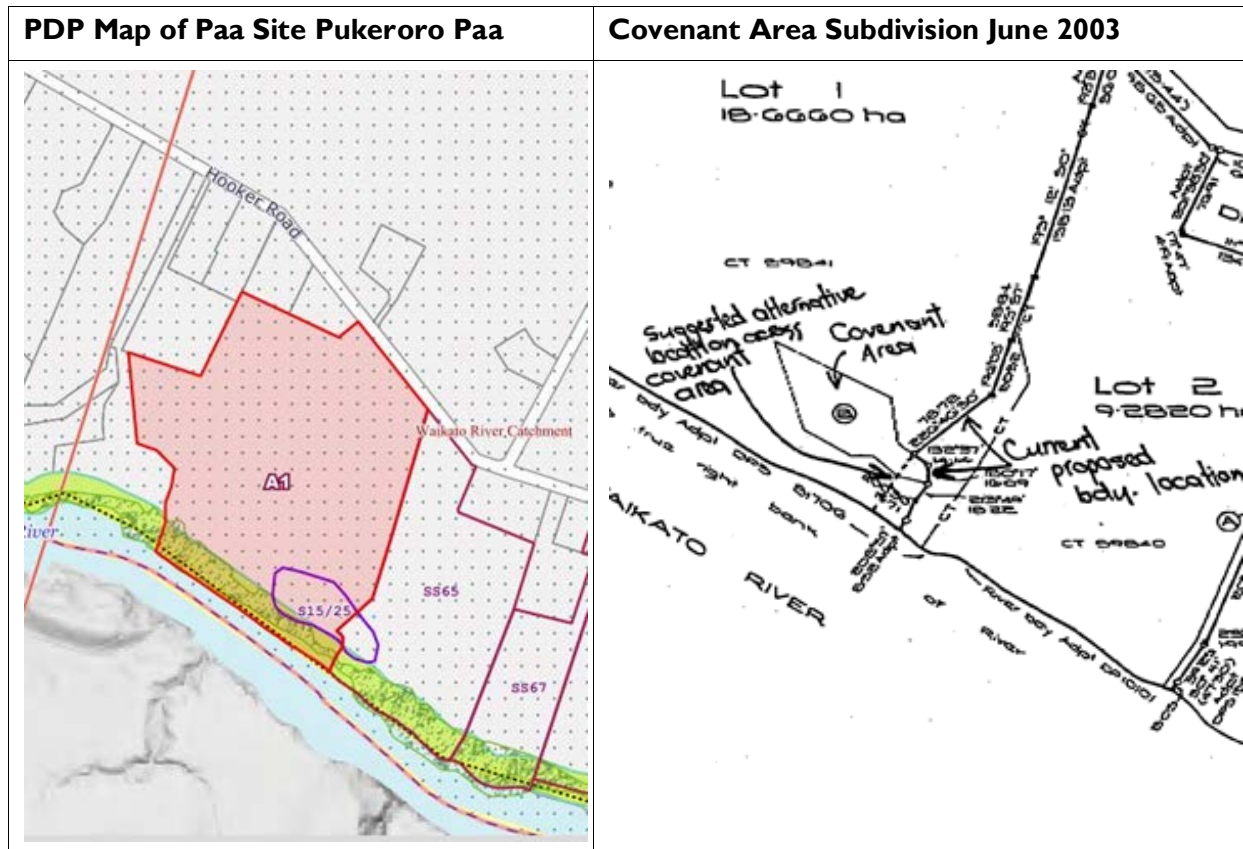
Figure 3: Te Paina Pa, Mercer Recreation Reserve Proposed Plan Notified version



72. I recommend that the further submission from Heritage New Zealand Pouhere Taonga [FS/323.147] be accepted.
73. Norris Peart [495.1] has asked for the boundary of the MSOS R14/51 known as Puke-autumu Paa (commonly known as 'The Finger') at 274 Okete Road, Raglan to be amended on the planning map to align with the existing fence line protecting the paa site. On 10 March 2020 Dr Kahotea and I carried out a site visit to view the paa site with Mr Peart. The features of the Paa, as identified by Dr Kahotea, are contained within the fence line. GPS points were taken to ascertain the existing fence line in conjunction with the actual paa features. The Paa and native bush are well preserved and protected by the Peart family [REF – Section 12].
74. Dr Kahotea recommended a revised boundary for MSOS R14/51 and supports the property owner for ecological and heritage management through a management plan and covenant. Based on the assessment of Dr Kahotea, I recommend that the submission be accepted and the amendment be made to the planning map as provided by Dr Kahotea, and support be considered as suggested by him.
75. Further submission Heritage New Zealand Pouhere Taonga [FS/323.164] opposes the amendment requested by submitter [495.1]. The original submitter states that the currently protected area is considerably larger than required to protect the site, so the amendment of the fence line does not affect the site. I therefore recommend that the further submission be rejected.
76. Rob Waddell on behalf of Riverdale Group Ltd [719.1] has asked to amend the extent of MSOS NZAA S15/25 shown on the planning map, to be consistent with the registered covenant as shown on the scheme of Subdivision of Lot 1 & 2 DP 342809 – 124 and 102 Hooker Road, Tamahere. The submitter has also asked to amend the MSOS Schedule 30.3

so that S15/25 is located on 102 Hooker Road, Tamahere. The covenant area is within Lot 1 only [REF – Section 13A].

Figure 4: Comparison of the PDP with the covenant for 102 Hooker Road, Tamahere



77. I recommend that submission [719.1] be accepted and the PDP planning map be amended as per covenant area as suggested above. Also I recommend that the MSOS Schedule S15/25 is amended as being located on 102 Hooker Road, Tamahere.
78. I recommend that further submission Heritage New Zealand Pouhere Taonga [FS/323.153] be rejected.

6.5 Add MSOS

79. Rolande Paekau on behalf of Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust [152.8] sought to add reference to an unregistered Waahi Tapu site on Riria Kereopa Memorial Drive, Raglan on Te Kopua Maori Land. Ms Paekau has asked for recognition of this urupaa site and that it be registered in the MSOS Schedule 30.3 Pre-1900 Koiwi was unearthed during earthworks for the proposed pump house sewerage line for the Te Kopua Papakainga. The area is fenced and signposted because of its significance to Tainui hapuu. The site for the pump house has been changed.
80. I recommend that this submission be accepted and that the Burial Ground be noted on Te Kopua 3 as an MSOS.

Figure 5: Te Kopua Old Urupa. Riria Kereopa Memorial Drive, Raglan



81. I recommend that the further submission from Heritage New Zealand Pouhere Taonga's [FS/323.159] be rejected – regarding the pre-1900 burial ground identified by Tainui hapuu.
82. Submitters Warren and Heather Parker [187.1] sought to add a reference to land opposite their property at 24 Kernott Road, which is owned by Horotiu Farms Ltd. The submitters ask to add that property as an MAOS, acknowledging that its neighbouring property is already identified as an MAOS known as “Kernott Road Garden”, which has a similar number of ‘borrow pits’ and should be protected too. These borrow pits are not identified as an MAOS in the PWDP. Dr Kahotea and I went to view the property and spoke with Mrs Parker. Her concern was acknowledged, however because time and the Covid-19 lockdown was upon us, we were not able to discuss the matter with the property owner. The borrow pits are distinctive and are protected under the Heritage New Zealand Pouhere Taonga Act, in accordance with Section 42. The Act provides overarching protection of all archaeological sites from modification or destruction, unless an authority is obtained. If land development is to take place in the future it would require an ‘Archaeological Authority’ from Heritage New Zealand to carry out any modification of this property along with engagement with Iwi/Mana whenua to ascertain heritage and cultural values. Dr Kahotea has provided a cultural review about the importance and the significance of borrow pits associated with Maaori horticulture, and WDC should be examining this as a means to achieve good heritage outcomes for heritage landscapes. Tangata Whenua has a significant heritage landscape and hapuu are facing it being rapidly depleted. [REF – Section 6]
83. Dr Kahotea recommended that the remaining horticultural sites of S14/164 be recognised as an ‘area of significance’ for Lot 6 DP 12221, as identified by the submitter, and I agree.
84. I recommend that further submission Heritage New Zealand Pouhere Taonga [FS/323.146] supporting the submission subject to review for suitability by mana whenua, be accepted.
85. Stuart Jefferis on behalf of Ruakiwi Graziers Limited [340.1] does not outline any relief sought, however the submission states that the sites on Ruakiwi’s property are unconfirmed. A property visit was carried out where we were met by Stuart and his father Sam Jefferis on 12 March 2020. There are two distinct hills that sit behind the Jefferis farm house - NZAA S13/119 and S13/141. The Jefferis farm is called Ruakiwi and the S13/119 paa site has that same name. The land has been farmed since the early 1900’s. Visible features, terraces and pits can be seen from the road and google mapping confirm enough evidence to support a closer examination. Time did not allow a field study, so it was suggested that this be

arranged in the near future [REF – Section 9]. Dr Kahotea is intending to undertake Field Survey Mapping for S13/119 and S13/141.

Figure 6: Jefferis Road Proposed District Plan Notified Version



86. I recommend that the submission be rejected and no changes are required to the Proposed District Plan maps.
87. Ruruhia Cila Henry [812.1] supports all Paa sites in the district plan being protected and asks that the Karamu Paa and Urupaa be included on the planning map on the corner of Gordonton and Piako Roads. When lands were taken for European settlement, and also given for churches, Maaori korero speaks about King Tawhaiao exhuming the remains of Maaori chiefs and taking their bones to Taupiri Mountain. It is said that tuupuna of local hapuu still remain there and in the adjacent land. Although St Mary's Anglican Church occupies part of the land and Waikato District Council administers the management of the urupaa/cemetery, it is still used by the Hukanui Marae and Ngaati Wairere whanau. The site has not been identified as an NZAA-recorded Paa site. Dr Kahotea has provided comment on the site and Mrs Henry may speak to her submission [REF – Section 14].
88. Dr Kahotea recommends that Council supports Ngaati Wairere in addressing significant heritage issues that they are facing at Hukanui. It is not known how Karamu Paa was not included in the Proposed District plan.
89. I recommend that Mrs Henry's submission [812.1] identifying the Paa and Urupaa as an MSOS and being scheduled in the district plan be accepted.
90. Kimai Huirama on behalf of Ngaati Tamainupo [962.1] asks to add protection to some of the (remaining) borrow pits in the NZAA Borrow pit cluster S14/371 on 5851 Great South

Road, Ngaaruawaahia because of their proximity to the Paa Site. These are deemed MSOS and of high cultural value to Ngaati Tamainupo and Ngaaruawaahia history. The vast area between Puke-i-aahua Paa and the Waikato River was associated with prehistoric Maaori cultivation. These have slowly been destroyed because of settlement, commercial industry, recreation, a cemetery and infrastructure. Ngaati Tamainupo also present their whakapapa as Mana whenua - to be recognised as having a right to be consulted during the current subdivision development, to preserve their history [REF – Section 15]. The submitters may wish to speak to their submission.

91. Email contact was made with the River Terraces Subdivision, Perjuli Developments Ltd on 13 March 2020 to request access to the property at 5851 Great South Road, Ngaaruawaahia for Dr Kahotea, the submitters and myself to assess the borrow pits of interest to them. The developer declined to meet us and also to allow access to the property. This decision was respected and Dr Kahotea said that there is enough visible evidence and history to carry out a cultural assessment.
92. Dr Kahotea has said that issues raised by Ngaati Tamainupo are best addressed by Council undertaking a review of the state of the remaining Waikato Horticultural Complex borrow pits with tangata whenua, to develop a strategic or management plan with preservation and conservation objectives.
93. I recommend that the cluster of borrow pits, or remaining borrow pits, be added to the planning map and Schedule 30.3 as an MSOS, and the supporting further submissions be accepted.
94. The reasons why these should be accepted, are that the 7 borrow pits situated on 5851 Great South Road, Ngaaruawahia are the last evidence of the cultural landscape of Maaori horticultural gardens associated with that Pukeiaahua Paa site. The preservation of these pits is sensitive to the history of Tamainupo, Pukeiaahua Paa, Ngaaruawahia's name and history (Wahia nga rua – Open up the foodpits) that connects to the Hakarimata Range and the meeting of the two rivers at the point.
95. I recommend that further submission Ngaa Uri o Tamainupo ki Whaingaroa Trust [FS1111.2] be accepted in support of [962.1].
96. I recommend that further submission Heritage New Zealand Pouhere Taonga [FS1323.151] supporting mana whenua [962.1] be accepted.

6.6 No changes to MSOS locations

97. Although submitter Elvin Priest [9.2] (reference to NZAA S14/84) PAA) did not seek a decision, he provided a comment that this site was on an early proposed route for the Waikato Expressway at Tamahere and that Transit staff and a Maaori elder had walked the site. There were few physical signs of the defence ditches. This proposed expressway route was later abandoned. There was no response to my email sent on 6 March 2020 to Mr Priest requesting permission to carry out a site visit, therefore I have relied on an NZAA Site Record Update of a site visit on 3 May 2007 by Chris Mallows, Archaeologist, Opus International Consultants, who reported:

“This pa was relocated at 2729654E / 6365379N +27m during the current site survey. Physical evidence of the pa that can be seen on the ground surface is poor. Linear banks and depressions do exist, but they are very ephemeral. Livestock have used the paddock in which

the pā is located between 1943 (when the aerial photographs were taken) and the present day. The ground surface surrounding the pā has been trampled, infilling the linear depressions. Directly behind the paddock on the northwest bank of the Karapiro Stream, appears to be a scarped bank. It is currently covered by native vegetation. However despite the ground surface damage to the site, the area has not been subjected to intensive agricultural land use and remains unmodified.”

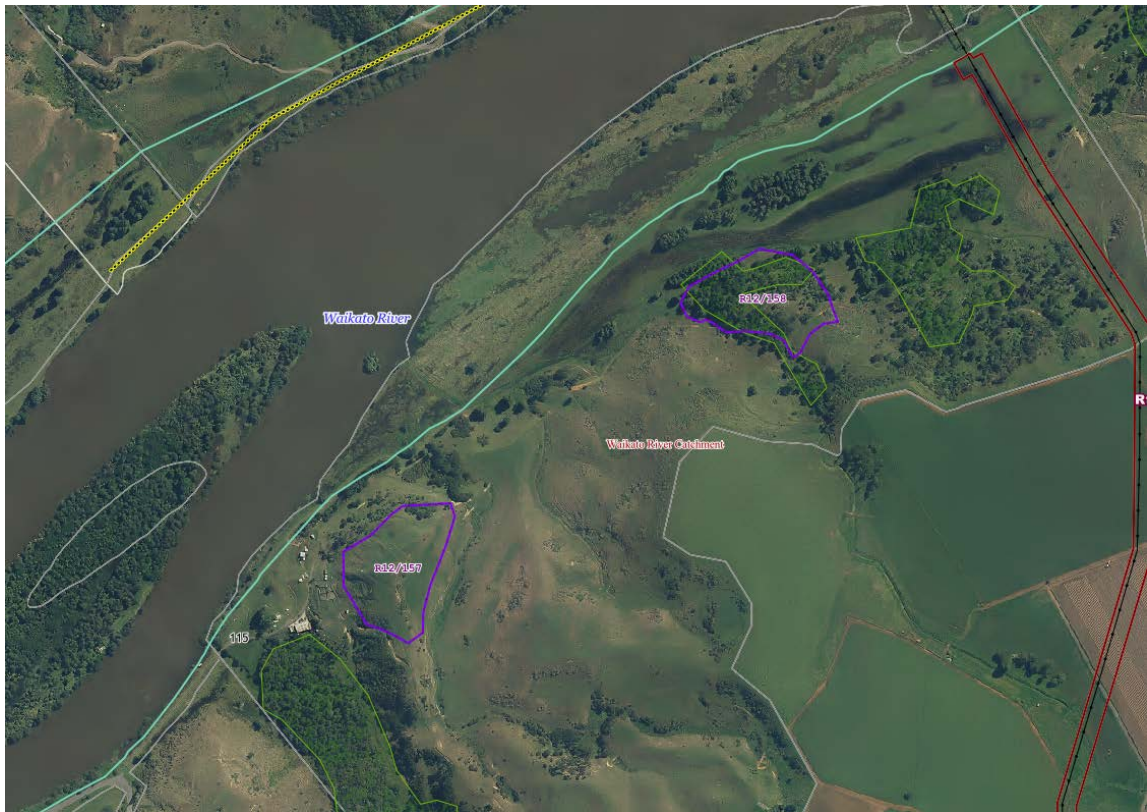
98. This also aligns with Dr Kahotea’s comments [REF – Section I]. Although there has been modification of the ground surface features of the pā due to former farming activities, there has not been any extensive sub-surface modification, and the integrity of the pā still remains. MSOS values are independent of archaeological values of physical state.

Figure 7: 524B State Highway I Tamahere Proposed District Plan Map Notified Version



99. I recommend that the submission be rejected, as no changes were necessary, and that further submission Heritage New Zealand Pouhere Taonga [FS/323.154] in opposition be accepted, even though no changes have been made to this site.
100. Submitters Stephen John and Megan Lesley Ronke [148.1] (Reference to NZAA S14/75 PAA) ask to amend the ‘previously’ proposed 100 metre buffer associated with MSOS S14/75 Paa site which is sited on the neighbouring property, between them and the Waipa River. The submitter strongly opposes being caught within that buffer at 64C Houghton Road, Whatatwhata. The proposed 100m buffer was removed before public notification of the proposed district plan and no longer remains an issue [REF – Section 5].
101. The recommendation by Dr Kahotea is that no change is necessary to the MSOS boundary, as the MSOS S14/75 boundary does not appear to impinge on the property of 64C Houghton Road, Whatatwhata. I recommend that the submission be rejected on the basis that the property is not affected by a buffer. I recommend that the further submission from Heritage New Zealand Pouhere Taonga [FS/323.158] in opposition be rejected because the issue of the submission does not apply.

Figure 9: Proposed District Plan Map Notified version Submission 261.2



103. The recommendation by Dr Kahotea is to retain the current MSOS status, therefore I recommend that the submission point be rejected.
104. Further submissions Ngaati Tamaoho Trust [FS/369.7], Te Whakakitenga o Waikato Inc [FS/108.148] supported the submitters' [261.1 and 261.2] concerns. An opportunity was not granted to discuss the issues, therefore I recommend that the further submissions be rejected.
105. I recommend that the further submission Heritage New Zealand Pouhere Taonga [FS/323.160] in opposition to the amendments sought by submission [261.2] be accepted.
106. L Dixon on behalf of Waikato Tainui [286.18] has asked that the incorrect reference to 333 Old Taupiri Road, Ngaruawahia as a Paa site be removed. I have been unable to locate this address reference to a Paa site in the MSOS, MAOS or Historic Heritage Schedules. 467 Hakarimata Road is correctly referenced to a Paa site called Te Pepepe, which is on the opposite side of the Waikato River to Hopuhopu. This reference is listed in the MSOS Schedule 30.3, but it does not include reference to 333 Old Taupiri Road, known as Hopuhopu. However, in later years there was a strong historical link with these two properties, when land was granted to the Church of England and the Reverend Benjamin Ashwell, who lived on Te Pepepe. He ran a school for Maaori boys on Hopuhopu². He also had a school for Maaori girls down the river at Kaitotehe opposite Taupiri maunga. Today, there may be confusion between the two sites because the two properties are amalgamated under the one title. The mixed zoning of Hopuhopu includes both properties. While there is a Paa site identified on one property, it is not linked in any way to a paa site on the Hopuhopu property.

² Historic Heritage PDP Section 32 Reports, Appendix 10.4.1.6-Ngaruawahia, Hopuhopu Page 185

107. I recommend that the submission be dismissed or rejected. Dr Kahotea was not asked to comment on this submission.
108. Further submission Pareoranga Te Kata [FS/035.24] supports submission [286.1], however the PDP does not recognise 333 Old Taupiri Road as having a Paa site on that property. Therefore I recommend that the submission be rejected.
109. Julie Caddigan [307.2, 307.3, 307.4, 307.5] states that there is confusion and conflicting co-ordinates over the exact location of the paa site SI4/5 Te Tuhi in Exelby Road, Rotokauri. Email contact was made with the submitter to seek access in order to address her concerns. This was not granted because of the landowner's security issues, and we were advised that the site lies fully within Council land on the shore of Lake Rotokauri. Time did not permit to physically pursue a site visit. Archaeological records, Iwi korero and historical whakapapa references were reviewed by Dr Kahotea [REF – Section 8].

Figure 10: Exelby Road Proposed District Plan Map Notified version.



110. Dr Kahotea has recommended that due to the Corona Virus lockdown, he hopes to resume the review and provide further information to the Panel from the Waikato Museum as to the location of the Rotokauri Paa site. In the meantime, I recommend that the submission be rejected. I recommend that the further submissions from Heritage New Zealand Pouhere Taonga [FS/323.161, FS/323.162, FS/323.163] opposing the amendments requested by the submitter J Caddigan, be accepted.
111. S Reynolds on behalf of Heritage New Zealand [559.239] has asked for Schedule 30.3 to be amended to include the Potatau Monument and the Kingitanga Reserve which they are developing to be listed as a waahi tapu site on the HNZPT Waahi Tapu/Waahi Tupuna list. The Potatau Monument site is recorded in the Historic Heritage Schedule 30.1 - Item 98 – and has been recognised for its heritage values to Waikato history. MAOS Schedule 30.4 recognises 'The Point' Reserve (also called Te Huinga o Ngaa Wai) and Kingitanga Reserve, as identified by two Item numbers - SS60 and SS63 – a site of pre-1900 history that connects

to the Hakarimata Range, Puke-i-aahua Paa to the naming of Ngaruawahia and the Kingitanga movement followed by European occupation. The complete area is difficult to identify electronically because much of The Point is legally gazetted as road reserve and unformed sections retained for open space recreation. The site, although not named, contains references to Maaori sites, NZAA archaeological sites and sites associated with the Redoubts. I believe that the addition of another reference is unnecessary. Dr Kahotea has not been asked to comment on this submission, but I recommend that this submission [559.239] be rejected.

112. S Reynolds on behalf of Heritage New Zealand [559.240] has given support to the MAOS sites to be retained, but has asked for a separate schedule - 'Schedule 30.6 Significant Waahi Tapu and Waahi Tapu Areas' - to include sites, including the following: Te Aukati ki Mangatawhiri – HNZ List No 9632; Meremere – HNZ List No 9609; Te Teo Teo – HNZ List No 9607; Rangiriri – HNZ List No 7720, and to add these to the planning maps showing the same extent as HNZ listings. I do not agree with this separate identification. MSOS and MAOS are waahi tapu sites that are significant to Maaori and particularly to Mana whenua of the areas in which they are located. The sites listed by the submitter are all included in the existing schedules as sites of significance. I acknowledge that Maaori want to recognise sites of significance, but I have not asked for their opinion on whether they want to identify levels of significance. Those places identified by HNZ represent loss, raupatu and far-reaching effect on Maaori. Dr Kahotea has not been asked to comment on this submission.
113. I recommend that we retain Schedules MSOS 30.3 and MAOS 30.4 and reject the addition of a separate schedule, as requested by submission [559.240].
114. Submitter Ruruhia Cila Henry [812.2] also asks to amend the proposed district plan to include the Komakorau Stream as a historical area. She states that the stream was originally part of the Waikato River that was used for floating logs to the Orini Timber Mill, and according to Maaori korero, that the Tarawera eruption could have begun from the Tongariro (Hatepe 180 AD?) eruption, thus causing the separation. I would suggest that this submitter may like to provide further korero so that this matter can be addressed further.
115. I recommend that this submission be rejected subject to further information being provided.
116. Brian Nabbs & Margaret Forsyth [978.1, 978.2 and 978.3] have raised three submissions. Although they have not sought a specific decision, they question the validity of the paa based on assumptions at 212D Newell Road, Tamahere. The Paa is clearly visible in the 1943 aerial photo 832/52. It is identifiable forming 1 side and a ditch forming 3 sides. The Paa was surrounded by a large area of gardens and borrow pits which are now affected by a recent residential subdivision. The Paa was called 'Patuwai' (Kaumatua Puke. W, updated by Dr W Gumbley) [REF – Section 16].

Figure 11: S14/117 Paa site using 1961 Aerial Photo. The paa is surrounded by a large area of garden soils and borrow pits, which are affected by a recent rural residential subdivision. (1961 Aerial Map)



117. Several attempts were made by email to request an onsite visit to examine the NZAA recorded Paa site. No response was received.
118. 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.
119. 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.
120. I recommend that further submissions from Heritage New Zealand Pouhere Taonga [FS1323.165, FS1323.166 and FS1323.167] opposing the amendments be accepted.
121. Submitter Rob Waddell on behalf of Riverdale Group Ltd [719.2] seeks to delete the MAOS SS65 from 124 Hooker Road, Tamahere, or amend Rule 22.2.3.2 Earthworks to allow earthworks associated with the construction of permitted activities within the Rural Zone. The property at 124 Hooker Road is part of an archaeological landscape of the Waikato Basin which is dominated by an interrelated complex of site types – Paa and associated

prehistoric garden areas. A report was compiled for NZAA S15/27 (Prehistoric Garden) “An Assessment of Archaeological Values,” Dr Warren Grumley, 2003. The Waikato Operative District Plan subsequently identified these areas in Historic Heritage Appendix C – Hooker Road Gardens – Totally, and were transferred to the PDP MAOS to include SS65, SS67, SS71, SS50 including MSOS S15/25 and S15/26. The continuation of protection through the district plan is giving recognition to heritage values of Maaori archaeological features that are associated with Maaori horticulture. The Hooker Road gardens are seen as one of the last remaining areas of these cultural landscapes because of the high attrition of growth development [REF – Section 13B]. With respect to the request to amend the earthworks rule, in my opinion it is appropriate to manage this activity within these areas to prevent modification without due consideration. The earthworks rules are also discussed further in this report.

Figure 12: Hooker Road Gardens – Waikato Operative District Plan



122. Dr Kahotea recommended that SS65 should remain in place as a district plan heritage schedule rather than leaving this to HNZPTA.
123. I therefore recommend that submission [719.2] be rejected and that the continued reference of SS65 Hooker Road Gardens remain in the MAOS Schedule and on the property of 124 Hooker Road, Tamahere, and recommend that the further submission Heritage New Zealand Pouhere Taonga [FS/323.152] in support of having extra protection of the district plan schedule, be accepted.
124. Although submitter Andrew Wilson [981.1] is supportive of recognising Maaori culture and spiritual values, he seeks more clarity regarding the MSOS NZAA R14/52, Harongarara Paa site that affects his property at Ryan Road, Te Akau South. The Paa site was originally shown with a 100 metre buffer when consultation was carried out with Mr Wilson, however this approach of a buffer was deleted before notification of the PDP. Although the paa site follows the outline of the Council Reserve, the bottom terraces of the Paa site run down into his property, as shown below by the area marked Lot 30. The remainder of his property continues into an SNA layer. Building will therefore require resource consent.

Figure 13: Ryan Road Notified Version of the Proposed District Plan



Figure 14: Notified area of the Paa site

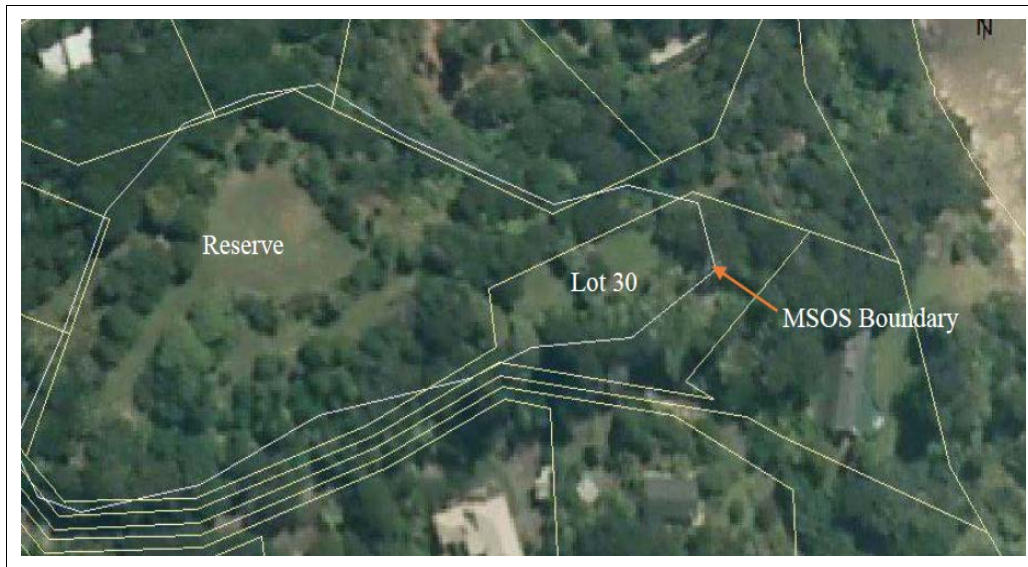


Figure 15: Property affected by the lower terraces of the Paa site



125. On 10 March 2020 Dr Kahotea and I meet Mr Wilson onsite and viewed the features of the paa. Mr Wilson's land is caught in the proposed planning rule restrictions of an MSOS, SNA, and proposed Village Zoning. He was particularly interested in knowing how or where he could build on the Paa site [REF – Section 17].
126. The recommendation by Dr Kahotea is that Council undertake an archaeological survey of the Recreational Reserve and explore options with the property owner to build a house and retain the terraces. The decision or advice sought is not addressed through this process.
127. Although this is not addressed through this process, the submitter is welcome to approach Council's Consents Team to explore options available for development on this property in respect of the overlay features of the PWDP.
128. Ngaati Te Ata [798.23] submission opposes the inclusion of the Paa in Pokeno within the future urban and industrial zones. No reasons have been provided. While this is not the platform to address this matter of zone development, it is in our interests to identify a Paa site as part of the MSOS project. Current archaeological assessments have not provided enough information to identify the Paa site, except the suggestion that the signal station at the south end of Pokeno may be Chief Wiremu Te Wheoro Paa (Ngaati Mahuta/Ngaati Naho). I would suggest that the submitters provide Korero to further the identification of this site if they wish. Dr Kahotea supports this suggestion.
129. I therefore recommend that this recommendation be rejected pending more information from Ngaati Te Ata.

6.7 Recommendations

130. I recommend, for the reasons given above, that the Hearings Panel:
- a. **Accept** submission Chris Yu [10.1] and amend location.
 - b. **Reject** further submission Heritage New Zealand Pouhere Taonga [FS/323.155] opposing [10.1].
 - c. **Accept** submission John Kinghorn [88.1] and amend accordingly.

- d. **Reject** further submission Heritage New Zealand Pouhere Taonga [FS/323.156] opposing [88.1].
- e. **Accept** submission Medihah Bardsley [100.2] and amend accordingly.
- f. **Reject** further submission Heritage New Zealand Pouhere Taonga [FS/323.157] opposing [100.2].
- g. **Accept** submission Liam McGrath, Mercer Residents & Ratepayers Committee [367.52], and amend MAOS map location.
- h. **Accept** further submission Heritage New Zealand Pouhere Taonga [FS/323.147] supporting [367.52].
- i. **Accept** submission Norris Peart [495.1] and amend as requested.
- j. **Reject** further submission Heritage New Zealand Pouhere Taonga [FS/323.164] opposing [495.1].
- k. **Accept** submission Rob Waddell for Riverdale Group Ltd [719.1] and amend accordingly.
- l. **Reject** further submission Heritage New Zealand Pouhere Taonga [FS/323.153].
- m. **Accept** submission Rolande Paekau Te Whaanga 2B3B2 & 2B1 Ahuwhenua Trust [152.8] identification of waahi tapu (burial ground).
- n. **Reject** further submission Heritage New Zealand Pouhere Taonga [FS/323.159] opposing [152.8].
- o. **Accept** submission W & H Parker [187.1].
- p. **Accept** further submission Heritage New Zealand Pouhere Taonga [FS/323.146] supporting [187.1].
- q. **Reject** submission Stuart Jefferis [340.1].
- r. **Accept** submission Ruruhia Cila Henry [812.1] in support of identification of all paa sites and wishes to include the Karamu paa and urupaa.
- s. **Accept** submission Ngaati Tamainupo [962.1].
- t. **Accept** further submissions Ngaa Uri o Tamainupo ki Whaingaroa Trust [FS/111.2] and Heritage New Zealand Pouhere Taonga [FS/323.151] supporting [962.1].
- u. **Reject** submission Elvin Priest [9.2].
- v. **Accept** further submission Heritage New Zealand Pouhere Taonga [FS/323.154] opposing [9.2].
- w. **Reject** submission SJ & ML Ronke [148.1].
- x. **Accept** further submission Heritage New Zealand Pouhere Taonga [FS/323.158] opposing [148.1].
- y. **Reject** submission Rita Carey [261.1 and 261.2].
- z. **Reject** further submissions Ngaati Tamaoho [FS/369.7] and Te Whakakitenga o Waikato [FS/108.148] supporting [261.1 and 261.2].
- aa. **Accept** further submission Heritage New Zealand Pouhere Taonga [FS/323.160] opposing [261.1 and 261.2].
- bb. **Reject** submissions Heritage New Zealand Lower Northern Office [559.239 and 559.240].
- cc. **Reject** submission Ruruhia Cila Henry [812.2],
- dd. **Reject** submission Lorraine Dixon (Waikato-Tainui) [286.18]
- ee. **Reject** further submission Pareoranga Te Kata [FS/035.24] supporting [286.18]

- ff. **Reject** submissions Julie Caddigan [307.2, 307.3, 307.4 and 307.5] based on archaeological and cultural documentation presented by Dr Kahotea
- gg. **Accept** further submissions Heritage New Zealand Pouhere Taonga [FS1323.161, FS1323.162 and FS1323.163] opposing [307.2, 307.3, 307.4 and 307.5]
- hh. **Reject** submissions B N Nabbs and M Forsyth [978.1, 978.2 and 978.3] opposing the validity of NZAA S14/117.
- ii. **Reject** further submission Blue Wallace Surveyors Ltd [FS1287.46] supporting [978.1].
- jj. **Accept** further submissions Heritage New Zealand Pouhere Taonga [FS1323.165, FS1323.166 and FS1323.167] opposing [978.1, 978.2 and 978.3].
- kk. **Reject** submission Rob Waddell for Riverdale Group Ltd [719.2].
- ll. **Accept** further submission Heritage New Zealand Pouhere Taonga [FS1323.152].
- mm. **Accept** submission Andrew Wilson [981.1] in supporting MSOS paa site on his property.
- nn. **Reject** submission Ngaati Te Ata [798.23].

6.8 Recommended Amendments

- 131. Based on the analysis above, I recommend the following amendments to the planning maps (and any associated amendments to Schedule 30.3 and 30.4):
- 132. Submission Chris Yu [10.1].

Figure 16: Notified Proposed District Plan Map-I6 Shelby Lane Tamahere



Figure 17: Recommended change to I6 Shelby Lane, Tamahere



133. Submission John Kinghorn [88.1]

Figure 18: Notified Proposed District Plan Map - 214 Bell Road, Whatawhata



Figure 19: Recommended change to 214 Bell Road, Whatawhata



134. Bardsley No 1 Family Trust [I00.2]

Figure 20: Notified Proposed District Plan Map 31 Birchwood Lane (aerial)

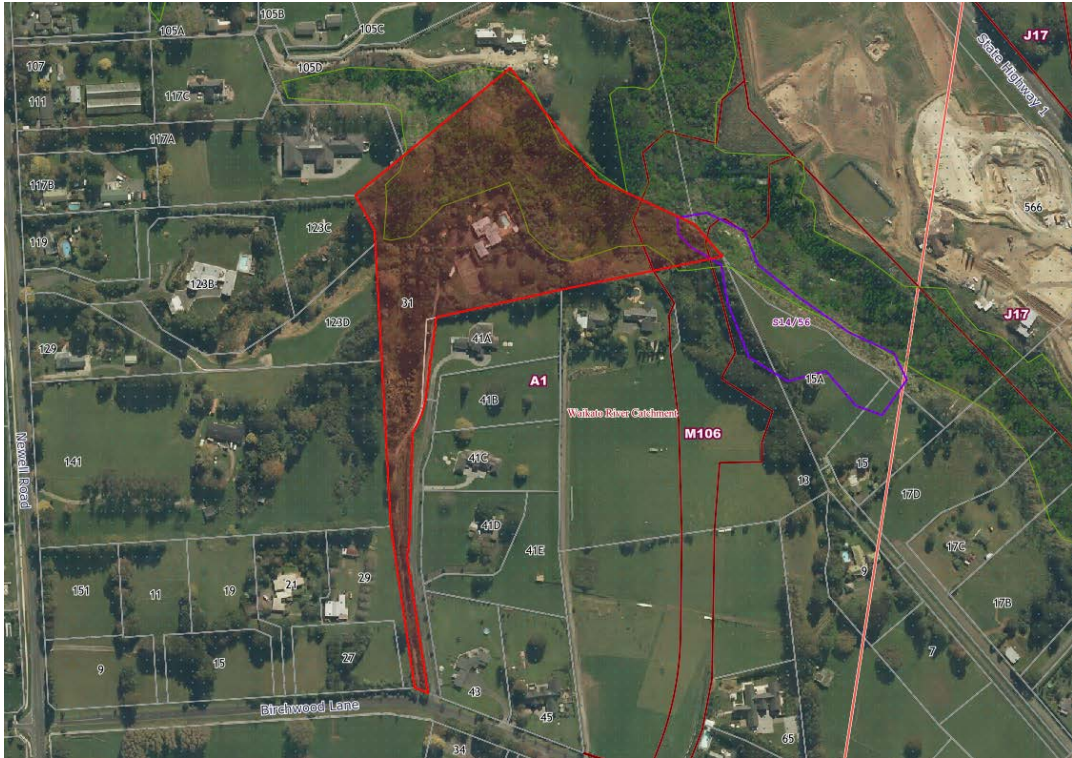
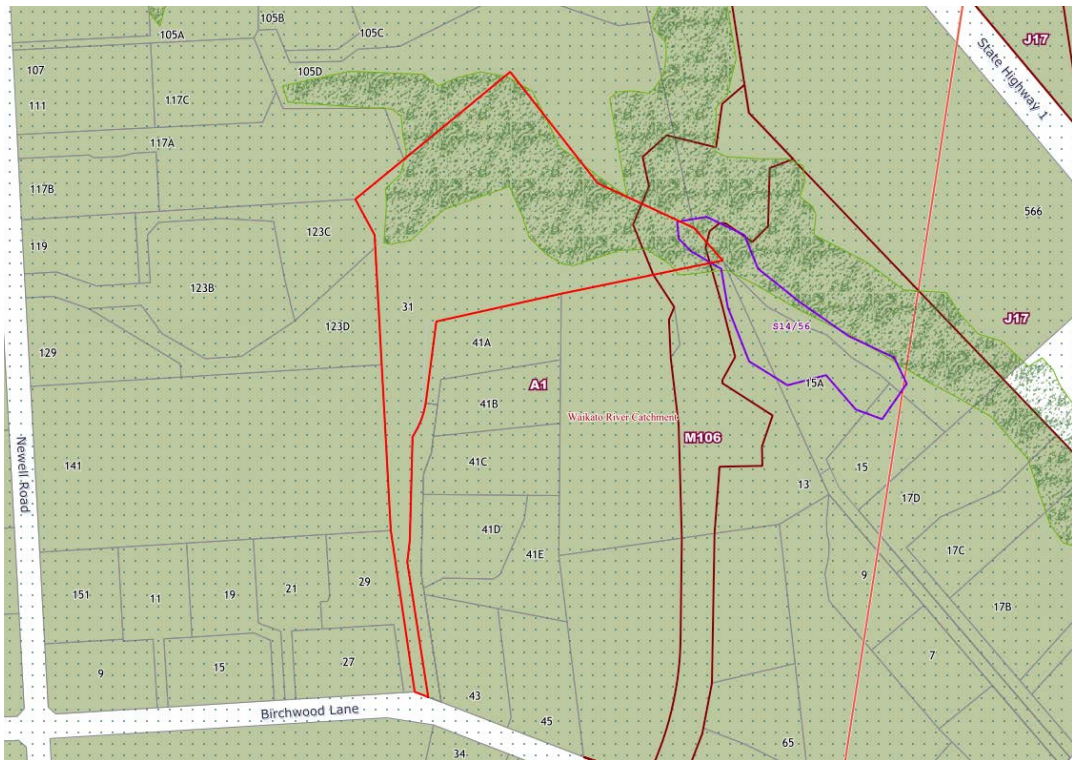


Figure 21 - Notified Proposed District Plan Map 31 Birchwood Lane



135. Submission Norris Peart [495.1].

Figure 24: Notified Proposed District Plan Map- 274 Okete Road, Okete



Figure 25: Recommended changes to 274 Okete Road, Okete (amend area protected by the fence line on the Planning Map).

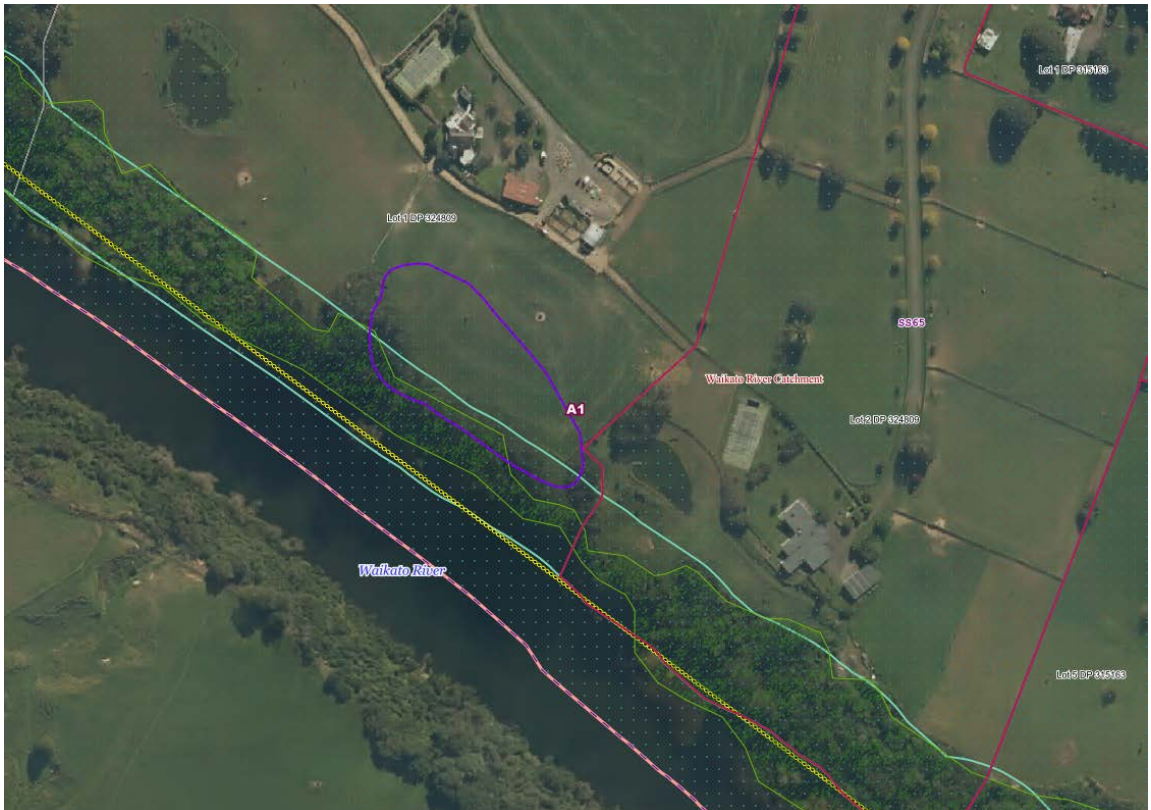


136. Submission Rob Waddell for Riverdale Group Ltd [719.1]

Figure 26: 124 Hooker Road Proposed Waikato District Plan Map Notified Version



Figure 27: Recommended Amended Version



137. Submission Rolande Paekau –Te Whaanga 2B3B2 & 2B1 Ahuwhenua Trust [152.8]

Figure 28 - Riria Kereopa Memorial Drive Proposed District plan Map Notified Version



Figure 29: Recommended Amendment Riria Kereopa Memorial Drive (add Old Burial Ground (Waahi Tapu) on PDP Planning Map, Te Kopua 3 and include the item in the MSOS Schedule 30.4



138. Submission W and H Parker [187.1]

Figure 30: Notified Proposed District Plan Map - opposite 24 Kernott Road, Horotiu



Figure 31: Recommended changes to the site opposite 24 Kernott Road, Horotiu (add Lot 6 DP 1221 as an MAOS)



139. Submission Ruruha Cila Henry [812.1]

Figure 32: Notified Proposed District Plan - Corner of Gordonton and Piako Road



Figure 33: Recommended Amendment to Cnr of Gordonton and Piako Road



140. Submission Ngaati Tamainupo [962.1].

Figure 34: 5851 Great South Road Proposed District Plan Notified Version



Figure 35: Recommended Amendment to 5851 Great South Road (add MSOS location of remaining borrow pits on Section 82 Suburbs of Ngaruawahia South.)



141. Brian Nabbs & Margaret Forsyth [978.1, 978.2 and 978.3] 212D Newell Road, Tamahere

Figure 36: 212D Newell Road Proposed District Plan Map Notified Version

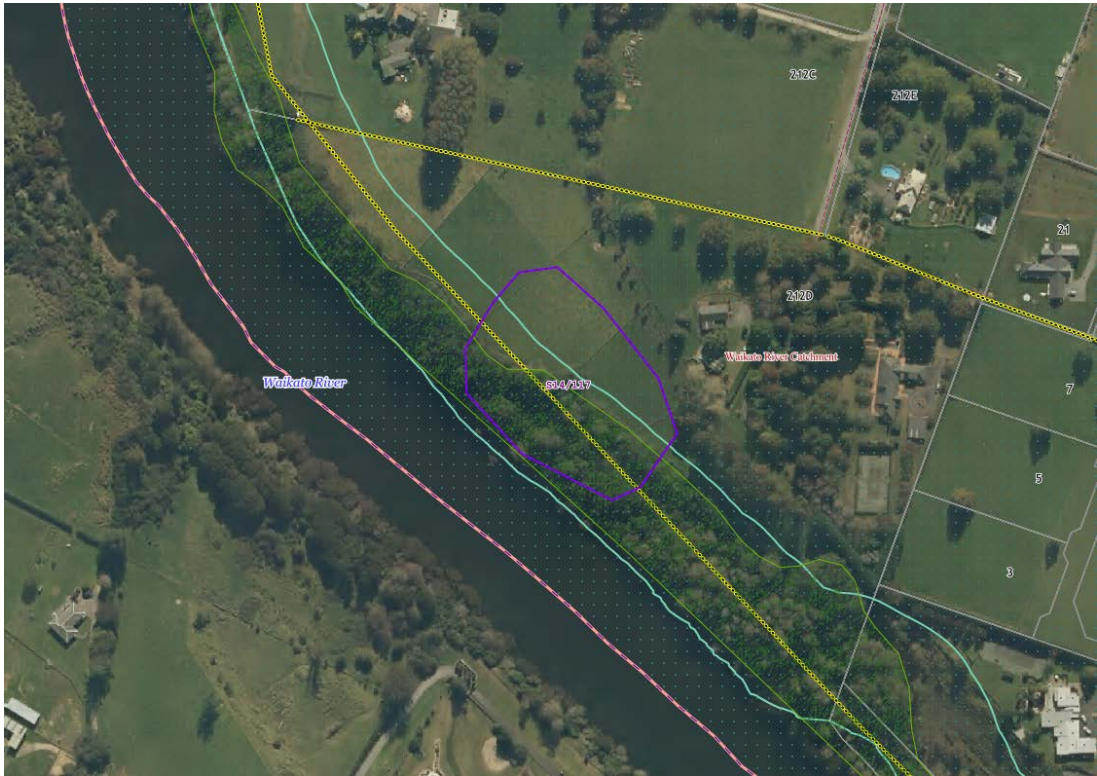
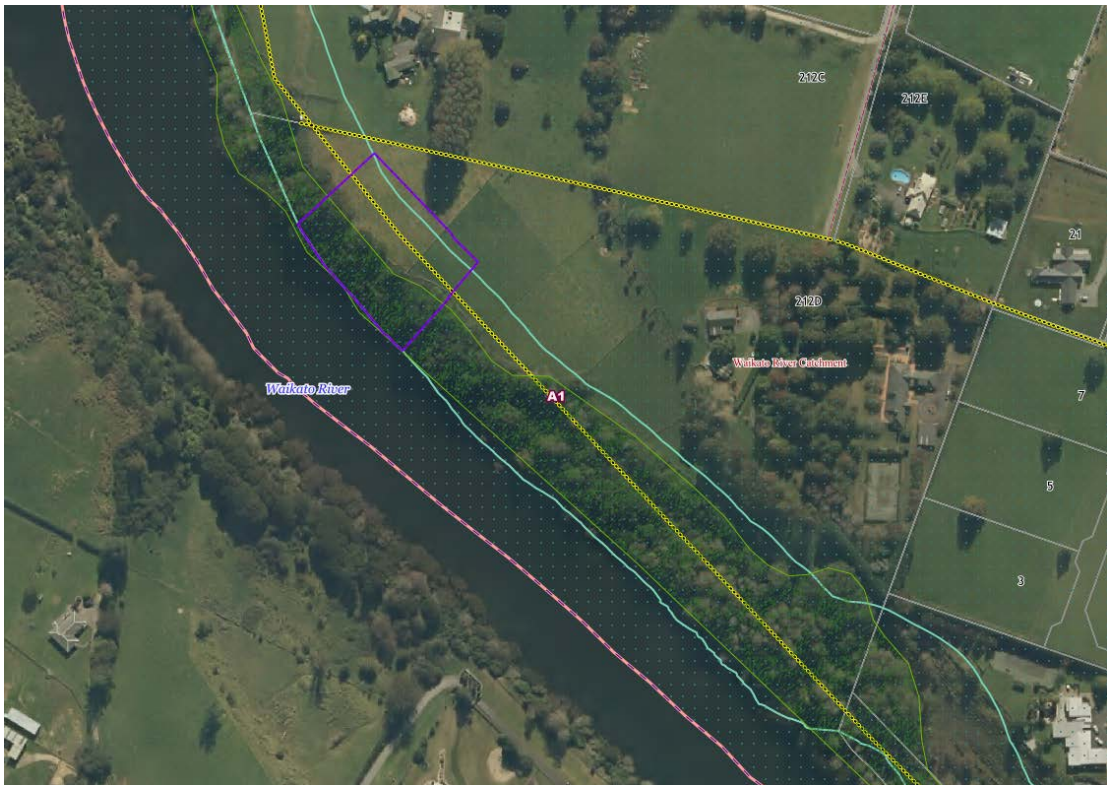


Figure 37: Recommended Amendment to 212 Newell Road



6.9 S32AA Evaluation

Other reasonably-practicable options

135. The original Section 32 Report – “Part 2 Tangata Whenua” evaluated options to protect Maaori sites of significance and Maaori Areas of significance, and concluded that the system adopted in the PWDP was the most appropriate option for achieving the Resource Management Act as well as giving effect to the Regional Policy Statement. Maps are included in the PWDP Planning Maps as overlays showing MAOS and MSOS. These maps are referred to in rules, for example the rules on Earthworks – Maaori Sites and Maaori Areas of Significance, in the Residential, Business, Rural, Country Living, Village and Reserves zones.
136. This approach has not been challenged in submissions. The submissions are focused on site specific amendments and additions to the maps. The conclusions of the section 32 report thus stand, and no other options need to be considered now.

Effectiveness and efficiency

137. The section 32 report details the expert reports and consultation process undertaken to identify MAOS and MSOS. Additional expert consideration of the mapping has been obtained to respond to the submissions on individual sites, as detailed in this report.
138. The map changes recommended are effective and efficient, in that Tangata Whenua values are fully supported, while other interests are not affected unnecessarily.

Costs and benefits

139. The overall costs and benefits of the PWDP approach are evaluated in the section 32 report, with the conclusion that the benefits exceed the costs. That general conclusion is unchanged by the recommended map changes. The amendments to the maps provide greater accuracy of mapping, therefore retain the benefits while reducing costs to some extent.
140. The amendments to existing maps will benefit Tangata Whenua by ensuring that sites are accurately represented in the planning maps, therefore the adverse effects on the sites of activities such as earthworks are fully assessed through the resource consent process. At the same time, the changes will help to minimise costs to other interests, including private landowners, in that improved accuracy of mapping mean that they will not be unnecessarily required to obtain resource consent for activities that are in fact not within an MAOS or MSOS.
141. The addition of new MAOS and MSOS to the Planning Maps will impose an additional cost on landowners in restricting some activities. However, in many cases activities such as earthworks will already be restricted on the sites under the Heritage New Zealand Pouhere Taonga Act 2014, where the site is a known archaeological site, and these additional costs will not be significant. More generally, the overall justification in the section 32 report for controlling activities on MAOS and MSOS applies to the newly-identified sites, including the favourable benefit-cost analysis.

Risk of acting or not acting

142. It is necessary to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. In the current context, there is sufficient certainty about the location of the sites, given the expert advice received, to make the map changes without additional consideration of risks.

Decision about most appropriate option

143. The amended and additional maps of MAOS and MSOS continue to give effect to the relevant Tangata Whenua objectives (especially Objective 2.15), as well as the objectives promoting general social, economic and cultural wellbeing. In my opinion, the recommended amendments are most appropriate to achieve those objectives.

7 Support for the earthworks rule

7.1 Introduction

144. This section considers submissions seeking retention of the rules in each zone chapter, controlling earthworks in relation to MSOS and MAOS. The earthworks rules ensure that consideration is given to the effects that earthworks may have on heritage and cultural values of a site.

7.2 Submissions

145. 9 submission points were received and 9 further submission points.

Submission Point	Submitter	Summary of Submission
286.28	Waikato Tainui	Retain earthworks on Maaori Sites of Significance and Maaori Areas of Significance as a restricted discretionary activity.
<i>FSI 035.34</i>	<i>Pareoranga Te Kata</i>	<i>Support 286.28.</i>
<i>FSI 176.42</i>	<i>Watercare Services Ltd</i>	<i>Support 286.28.</i>
367.29	Mercer Residents & Ratepayers Committee	Retain Rule 24.2.4.2 Earthworks for Maaori Sites and Maaori Areas of Significance
380.12	Waahi Whaanui Trust	Retain the restricted discretionary activity status for earthworks in Maaori Sites of Significance and Maaori Areas of Significance.
<i>FSI 108.137</i>	<i>Te Whakakitenga o Waikato Inc</i>	<i>Support 380.12</i>
<i>FSI 388.77</i>	<i>Mercury NZ Limited for Mercury E</i>	<i>Oppose 380.12</i>
493.37	Jackie Colliar	Retain earthworks on Maaori Sites of Significance and Maaori Areas of significance as a restricted discretionary activity.
<i>FSI 035.90</i>	<i>Pareoranga Te Kata</i>	<i>Support 493.37</i>
553.14	Malibu Hamilton	Retain Rule 16.2.4.2 Earthworks – Maaori Sites and Maaori Areas of Significance. The New Zealand Coastal Policy Statement 2010 in Policy (d) recognises Tangata whenua needs for papakāinga, marae.
<i>FSI 388.788</i>	<i>Mercury NZ Limited – Mercury E</i>	<i>Oppose 553.14</i>
553.22	Malibu Hamilton	Retain Rule 22.2.3.2 Earthworks – Maaori Sites and Maaori Areas of Significance.
<i>FSI 271.2</i>	<i>Riverdale Group Limited</i>	<i>Oppose 553.22. Riverdale Group oppose the submission seeking that the wording of Rule 22.2.3.2 be retained. The existing wording is too restrictive/onerous.</i>

Submission Point	Submitter	Summary of Submission
553.31	Malibu Hamilton	Retain Rule 24.2.4.2 Earthworks for Maaori Sites and Maaori areas of Significance.
553.33	Malibu Hamilton	Retain Rule 28.2.4.2 Earthworks – Maaori Sites and Maaori Areas of Significance.
984.12	Turangawaewae Trust Board Trustee G Raumati	Retain earthworks on Maaori Sites of Significance and Maaori Areas of Significance as a restricted discretionary activity.
<i>FSI 108.182</i>	<i>Te Whakakitenga o Waikato Inc</i>	<i>Support 984.12. Support this activity status as an early warning for earthworks activities.</i>
<i>FSI 387.1623</i>	<i>Mercury NZ Limited for Mercury D</i>	<i>Oppose 984.12</i>

7.3 Analysis

146. The provision of a standard ‘Earthworks’ rule has been provided in each of the zone chapters of the PDWP as follows:

Earthworks - Maaori Sites and Maaori Areas of Significance

RDI	<p>(a) Earthworks within a Maaori site of significance as identified in Schedule 30.3 (Maaori site of Significance) as shown on the planning maps.</p> <p>(b) Earthworks within a Maaori area of significance as identified in Schedule 30.4 (Maaori area of Significance) as shown on the planning maps.</p> <p>(c) Council's discretion is limited to the following matters:</p> <ul style="list-style-type: none"> (i) Location of earthworks in relation to the site; (ii) Effects on heritage and cultural values.
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147. This rule applies within an identified MSOS or MAOS, as identified in Schedule 30.3 and 30.4, as shown on the planning maps. For earthworks activities within these areas, Council's discretion is limited to location of earthworks in relation to the site, and effects on heritage and cultural values. The effect on heritage and cultural values needs to be determined by the location of earthworks in relation to the site and comments from Mana whenua in terms of cultural values. It should also be acknowledged that the Heritage New Zealand Pouhere Taonga Act applies to all archaeological sites, whether within or outside an area of significance. I recommend that an ‘Advisory Note’ be used to alert plan users to the relevance of the Heritage New Zealand Pouhere Taonga Act.
148. The ‘Advisory Note’ could also include acknowledgment of ‘Accidental Discovery Protocols’, as suggested by the further submission from Federated Farmers [FSI/342].
149. The submissions from Waikato Tainui [286.28], Mercer Residents & Ratepayers Committee [367.29], Waahi Whaanui Trust [380.12], Jackie Colliar [493.37], and Turangawaewae Trust Board - G Raumati [984.12], all support the retention of the earthworks rule and see it as an early warning when such activities are being undertaken. Malibu Hamilton's submissions [553.14, 553.22, 553.31 and 553.33] support rules 16.2.4.2; 22.2.3.2; 24.2.4.2 and 28.2.4.2 respectively, and seek that they be retained. I recommend accepting the submissions in part, to the extent that they support the rule, and subject to recommendations that I have made in response to other submissions.

150. Further submissions from Pareoranga Te Kata [FS1035.34, FS1035.90] and Watercare Services Ltd [FS1176.42], Te Whakakitenga o Waikato [FS1108.137 and FS1108.182] support the above submissions for earthworks rules.
151. The further submission by Riverdale Group Limited [FS1271.2] opposes the submission from Malibu Hamilton [553.22] relating to Rule 22.2.3.2, on the basis that the existing wording is too restrictive/onerous. My understanding of the submitter's view is that this further submission is concerned about the draft Proposed District Plan, which had a 100m buffer around each MSOS. This approach was reconsidered in the section 32 report with a methodology supported by archaeologist Dr Kahotea. The change was not easily picked up by property owners who were formerly affected. This was discussed with the submitter during the site visit. The delineated area of the site of significance, as shown on the planning maps, now is a minimum area of a paa site or paa village that is set aside as a MSOS. In my opinion, it makes the provision less restrictive and less onerous. The rule is to protect the cultural value of a site through the district plan rules. An archaeological value assessment must be referred to Heritage New Zealand Pouhere Taonga. In the case of an MAOS, this includes the whole property or properties. The applicant lives in an area which includes the Hooker Road Maaori Gardens, and has been a District Plan heritage item since the original subdivision. The submitter's land does not have the Maaori Area of Significance noted on his property, but has a covenant on the Paa site area which is noted on his Certificate of Title, and this agrees with the area noted on the proposed planning map.

7.4 Recommendations

152. For the reasons above, I recommend that the Hearing Panel:
- a. **Accept in part** Waikato Tainui [286.28], Mercer Residents & Ratepayers Committee [367.29], Waahi Whaanui Trust [380.12], Jackie Colliar [493.37], Malibu Hamilton [553.14, 553.22, 553.31 and 553.33] supporting rules 16.2.4.2; 22.2.3.2; 24.2.4.2 and 28.2.4.2, and Turangawaewae Trust Board - G Raumati [984.12].
 - b. **Accept in part** the supporting further submissions from Pareoranga Te Kata [FS1035.34, FS1035.90] and Watercare Services Ltd [FS1176.42], Te Whakakitenga o Waikato [FS1108.137 and FS1108.182].
 - c. **Accept in part** Riverdale Group Ltd [FS1271.2] opposing the submission.

7.5 Amendments

153. There are no amendments recommended in this section of my report arising from the aforementioned submissions.

8 Amend the earthworks rule

8.1 Introduction

154. This section considers submissions asking for amendments to the zone rules controlling earthworks in relation to MSOS and MAOS. The rules are identical in each zone, requiring consent as a restricted discretionary activity. Many of the submissions are from Heritage New Zealand and Waikato District Council, asking for changes to the matters of discretion in each rule.
155. 28 submission points were received and 23 further submission points.

Submission Point	Submitter	Summary of Submission
307.1	Julie Caddigan	Amend Rule 22.2.3.2 Earthworks - Maaori Sites and Maaori Areas of Significance to be more in line with Rule 22.2.3.3 and allow for a defined level of earthworks, cut and fill as a permitted activity, for example rotary hoeing, fencing and forestry activities and ensure farming remains viable in these areas.
<i>FSI 271.1</i>	<i>Riverdale Group Limited</i>	<i>Support 307.1</i>
<i>FSI 323.24</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 307.1</i>
340.3	Ruakiwi Graziers Ltd	No specific decision sought, however submission opposes Rule 22.2.3.3 Earthworks - Significant Natural Area and Rule 22.2.3.2 Earthworks - Maaori Sites and Areas of Significance.
942.78	Angeline Greensill - Tainui o Tainui	Amend Rule 16.2.4.2 Earthworks - Maaori sites and Areas of significance to limit the extent of earthworks and vegetation clearance to minimise the negative impacts to the environment and to ensure the values of the site are protected.
559.19	Heritage New Zealand Lower Northern Office	Retain Rule 16.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below. AND Amend Rule 16.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows: <i>(a) Earthworks <u>ancillary earthworks and rural ancillary earthworks</u> within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on the planning maps.</i> <i>(b) Council's discretion is restricted to the following matters:</i> <i>(i) <u>Nature, design, extent and location of activity in relation to the site;</u></i> <i>(ii) <u>Effects of the proposal on heritage and cultural values</u></i> <i>(iii) <u>The purpose and necessity for the works and any alternatives considered.</u></i>
942.89	Angeline Greensill - Tainui o Tainui	No specific decision sought, but submission refers to Rule 17.2.1.1 Earthworks - Maaori Sites and Areas of Significance.
559.20	Heritage New Zealand Lower Northern Office	Retain Rule 17.2.5.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below. AND Amend Rule 17.2.5.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows: <i>(a) Earthworks <u>ancillary earthworks and rural ancillary earthworks</u> within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on</i>

Submission Point	Submitter	Summary of Submission
		<p>the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u> <p>AND</p> <p>Amend Rule 17.2.5.2 RDI Earthworks - Maaori Sites and Maaori Areas of Significance to be consistent with the equivalent rule in other zone chapters.</p>
559.21	Heritage New Zealand Lower Northern Office	<p>Retain Rule 18.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 18.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on the planning maps.</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u>
559.22	Heritage New Zealand Lower Northern Office	<p>Retain Rule 22.2.3.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 22.2.3.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on the planning maps.</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u>
FS1271.3	Riverdale Group Limited	Oppose 559.22

Submission Point	Submitter	Summary of Submission
FS 1342.136	Federated Farmers	Oppose 559.22
559.23	Heritage New Zealand Lower Northern Office	<p>Retain Rule 23.2.3.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 23.2.3.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p><i>(a) Earthworks <u>ancillary earthworks and rural ancillary earthworks</u> within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on the planning maps.</i></p> <p><i>(b) Council's discretion is restricted to the following matters:</i></p> <ul style="list-style-type: none"> <i>(i) <u>Nature, design, extent and location of activity in relation to the site;</u></i> <i>(ii) <u>Effects of the proposal on heritage and cultural values</u></i> <i>(iii) <u>The purpose and necessity for the works and any alternatives considered.</u></i>
FS 1342.137	Federated Farmers	Oppose 559.23
559.24	Heritage New Zealand Lower Northern Office	<p>Retain Rule 24.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 24.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p><i>(a) Earthworks <u>ancillary earthworks and rural ancillary earthworks</u> within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on the planning maps.</i></p> <p><i>(b) Council's discretion is restricted to the following matters:</i></p> <ul style="list-style-type: none"> <i>(i) <u>Nature, design, extent and location of activity in relation to the site;</u></i> <i>(ii) <u>Effects of the proposal on heritage and cultural values</u></i> <i>(iii) <u>The purpose and necessity for the works and any alternatives considered.</u></i> <p>AND</p> <p>Amend Rule 24.2.4.2 RDI Earthworks - Maaori Sites of Significance to be consistent with the equivalent rule in other zone chapters.</p>
559.25	Heritage New Zealand Lower Northern Office	<p>Retain Rule 25.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 25.2.4.2 RDI Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p>

Submission Point	Submitter	Summary of Submission
		<p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks</u> within a Maaori site of Significance as identified in Schedule 30.3 (Maaori sites of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u>
559.26	Heritage New Zealand Lower Northern Office	<p>Retain Rule 16.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 16.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks</u> within a Maaori area of Significance as identified in Schedule 30.4 (Maaori Areas of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u>
559.27	Heritage New Zealand Lower Northern Office	<p>Supports in part - Retain Rule 17.2.5.2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 17.2.5.2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks</u> within a Maaori Area of Significance as identified in Schedule 30.4 (Maaori Areas of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u> <p>AND</p> <p>Amend Rule 17.2.5.2 RD1 Earthworks - Maaori Sites and Maaori Areas of Significance to be consistent with</p>

Submission Point	Submitter	Summary of Submission
		the equivalent rule in other zone chapters.
559.28	Heritage New Zealand Lower Northern Office	<p>Supports in part -Retain Rule 18.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 18.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p><i>(a) Earthworks <u>ancillary earthworks and rural ancillary earthworks</u> within a Maaori area of Significance as identified in Schedule 30.4 (Maaori Area of Significance) and shown on the planning maps.</i></p> <p><i>(b) Council's discretion is restricted to the following matters:</i></p> <ul style="list-style-type: none"> <i>(i) <u>Nature, design, extent and location of activity in relation to the site;</u></i> <i>(ii) <u>Effects of the proposal on heritage and cultural values</u></i> <i>(iii) <u>The purpose and necessity for the works and any alternatives considered.</u></i>
FS1388.795	Mercury NZ Limited – Mercury E	Oppose 559.28
559.29	Heritage New Zealand Lower Northern Office	<p>Retain Rule 22.2.3.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 22.2.3.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p><i>(a) Earthworks <u>ancillary earthworks and rural ancillary earthworks</u> within a Maaori area of Significance as identified in Schedule 30.4 (Maaori Areas of Significance) and shown on the planning maps.</i></p> <p><i>(b) Council's discretion is restricted to the following matters:</i></p> <ul style="list-style-type: none"> <i>(i) <u>Nature, design, extent and location of activity in relation to the site;</u></i> <i>(ii) <u>Effects of the proposal on heritage and cultural values</u></i> <i>(iii) <u>The purpose and necessity for the works and any alternatives considered.</u></i>
FS1271.4	Riverdale Group Limited	Oppose 559.29
FS1342.138	Federated Farmers	Oppose 559.29
559.30	Heritage New Zealand Lower Northern Office	<p>Retain Rule 23.2.3.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 23.2.3.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p><i>(a) Earthworks <u>ancillary earthworks and rural ancillary</u></i></p>

Submission Point	Submitter	Summary of Submission
		<p><u>earthworks</u> within a Maaori area of Significance as identified in Schedule 30.4 (Maaori Areas of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u>
FS1342.139	Federated Farmers	Oppose 559.30
559.31	Heritage New Zealand Lower Northern Office	<p>Retain Rule 24.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 24.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks</u> within a Maaori area of Significance as identified in Schedule 30.4 (Maaori Areas of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u> (iii) <u>The purpose and necessity for the works and any alternatives considered.</u> <p>AND</p> <p>Amend Rule 24.2.4.2 Earthworks – Maaori Sites and Maaori Areas of Significance to be consistent with the equivalent rule in other zone chapters.</p>
559.32	Heritage New Zealand Lower Northern Office	<p>Retain Rule 25.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 25.2.4.2 RD2 Earthworks – Maaori Sites and Maaori Areas of Significance as follows:</p> <p>(a) <u>Earthworks ancillary earthworks and rural ancillary earthworks</u> within a Maaori area of Significance as identified in Schedule 30.4 (Maaori Areas of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) <u>Nature, design, extent and location of activity in relation to the site;</u> (ii) <u>Effects of the proposal on heritage and cultural values</u>

Submission Point	Submitter	Summary of Submission
		<i>(iii) The purpose and necessity for the works and any alternatives considered.</i>
559.33	Heritage New Zealand Lower Northern Office	Add a new earthworks rule to each zone chapter as follows: <i>DI - Earthworks, new ancillary earthworks and new rural ancillary earthworks within a waahi tapu as identified in Schedule 30.6 (Significant Waahi Tapu and Waahi Tapu area) and shown on the planning maps.</i> AND Provide recognition of the full extent of Waahi tapu Te Aukati ki Mangatawhiri, Meremere, Te Teo Teo and Rangiriri (as this relates to the schedules). (Refer to subsequent submission points).
<i>FS1342.140</i>	<i>Federated Farmers</i>	<i>Oppose 559.33</i>
<i>FS1388.796</i>	<i>Mercury NZ Limited – Mercury E</i>	<i>Oppose 559.33</i>
559.34	Heritage New Zealand Lower Northern Office	Add a new non-complying rule NCI within each zone chapter to regarding the destruction of Maaori sites and areas of significance and waahi tapu sites and scheduled areas (as sought through the submission) as follows: <i>NCI – the destruction of a site or area of significance to maaori, or a Waahi Tapu or Waahi Tapu area.</i> AND Amend the plan to provide for any other consequential amendments as required.
<i>FS1271.5</i>	<i>Riverdale Group Limited</i>	<i>Oppose559.34</i>
<i>FS1342.134</i>	<i>Federated Farmers</i>	<i>Oppose 559.34</i>
<i>FS1388.797</i>	<i>Mercury NZ Limited – Mercury E</i>	<i>Oppose 559.34</i>
559.237	Heritage New Zealand Lower Northern Office	Retain Schedule 30.3 - Maaori sites of Significance within the Plan, except for the amendments sought below. AND Amend the introductory notes to Schedule 30.3 to include the following advice note: <i>The Maaori Sites and Areas of Significance are also recorded archaeological sites and may also contain unrecorded archaeological sites. These sites are subject to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological assessment to determine the need for an archaeological authority. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites.</i>
<i>FS1035.93</i>	<i>Pareoranga Te Kata</i>	<i>Support 559.237</i>

Submission Point	Submitter	Summary of Submission
FS1276.187	Whaingaroa Environmental Defence Inc Society	Support 559.237. WED seeks that the whole of the submission point be allowed and that the maps be amended.
559.238	Heritage New Zealand Lower Northern Office	<p>Retain Schedule 30.4 – Maaori Areas of Significance within the Plan, except for the amendments sought below.</p> <p>AND</p> <p>Amend the introductory notes to Schedule 30.4 to include the following advice note:</p> <p><u>The Maaori Sites and Areas of Significance are also recorded archaeological sites and may also contain unrecorded archaeological sites. These sites are subject to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological assessment to determine the need for an archaeological authority. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites.</u></p>
FS1035.94	Pareoranga Te Kata	Support 559.2387
680.203	Federated Farmers	<p>Add new matter of discretion (iii) to Rule 22.2.3.2 RD1 (b) Earthworks - Maaori Sites and Maaori Areas of Significance, as follows:</p> <p><u>(iii) the applicant's functional and operational need to undertake the activity in the area.</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned as Country Living Zone.</p>
FS1271.6	Riverdale Group Limited	Support 680.203
FS1323.25	Heritage New Zealand Pouhere Taonga	Oppose 680.203
680.204	Federated Farmers	<p>Add new matter of discretion (iii) to Rule 22.2.3.2 RD1 (b) Earthworks - Maaori Sites and Maaori Areas of Significance, as follows:</p> <p><u>(iii) the applicant's functional and operational need to undertake the activity in the area.</u></p> <p>AND</p> <p>Any consequential changes needed to give effect to this relief.</p> <p>AND</p> <p>Any consequential amendments to Chapter 23: Country Living Zone to address areas of existing farmland zoned</p>

Submission Point	Submitter	Summary of Submission
		as Country Living Zone.
FS1271.7	Riverdale Group Limited	Support 680.204
FS1323.26	Heritage New Zealand Pouhere Taonga	Oppose 680.204
695.128	Sharp Planning Solutions Ltd	Amend Rule 24.2.4.2 PI (a) Earthworks – for Maaori Sites and Maaori Areas of Significance, to provide clarity as to whether the 100m setback of a Maori Area of Significance applies to adjoin sites.
FS1323.20	Heritage New Zealand Pouhere Taonga	Support 695.128
695.129	Sharp Planning Solutions Ltd	Amend Rule 24.2.4.2 PI (a) Earthworks – for Maaori Sites and Maaori Areas of Significance, to provide a zone specific trigger; and sites that exceed the suggested area/ratio of 1:1 earthworks could be another trigger.
FS1323.21	Heritage New Zealand Pouhere Taonga	Oppose 695.129
330.82	Andrew and Christine Gore	No specific decision sought, however submission refers to Rule 22.2.3.2 Earthworks - Maori Sites and Maori Areas of Significance.
343.26	Harrison Grierson Consultants	Delete Rule 28.2.4.2 Earthworks Maaori Sites and Maaori Areas of Significance. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in this submission.

8.2 Analysis

156. I have begun with the submissions from Angeline Greensill. I believe that the submitter is referring to the general rule of earthworks and vegetation clearance, and these matters should be considered in hearings for Earthworks across the zones and Hearing H21 Significant Natural Areas in regard to these topics, however I have considered them in relation to the MSOS and MAOS.
157. Angeline Greensill – Tainui o Tainui [942.78] seeks to amend the rule to provide a limit to the extent of earthworks and vegetation clearance to minimise the negative impacts on the environment, and to ensure that the values of the site are protected. In my opinion it would be difficult to set a limit for this activity as such. I prefer that within an MSOS or MAOS area, Council's discretion addresses the location of earthworks in relation to the effects on heritage and cultural values. This would require input from Iwi/manua whenua for cultural values. For this reason, I recommend that these submissions be rejected in regard to having a limit within the rule for MSOS and MAOS sites.
158. Angeline Greensill -Tainui-o-Tainui's submission [949.89] does not disclose any relief sought, therefore I recommend that this submission be rejected.

159. Julie Caddigan [307.1] asks to amend Rule 22.2.3.2, Earthworks – MSOS and MAOS to allow a defined level of earthworks, and cut and fill as a permitted activity. The purpose is to protect these sites, and any level of earthworks may adversely affect the cultural values and integrity of a site. I consider that a resource consent process will allow the effects of earthworks to be appropriately considered. I therefore recommend that that submission and the further submission from Riverdale Group Limited [FS/271.1] be rejected. I also recommend that HNZPT [FS/323.24] opposing [307.1] be accepted.
160. Although no specific decision is sought, Ruakiwi Graziers Ltd [340.3] submission opposes the Rule 22.2.3.2 MSOS and 22.2.3.3 SNA areas. I recommend that this submission be rejected. The rule is provided to give protection to sites of significance to Maaori, however it provides the means to apply discretion to the location and to heritage and cultural values.
161. Submissions from Heritage New Zealand [559.19 for Rule 16.2.4.2], [559.20 for Rule 17.2.5.2], [559.21 for Rule 18.2.4.2], [559.22 for Rule 22.2.3.2], [559.23 for Rule 23.2.3.2], [559.24 for Rule 24.2.4.2], [559.25 for Rule 25.2.4.2], [559.26 for Rule 16.2.4.2], [559.27 for Rule 17.2.5.2], [559.28 for Rule 18.2.4.2], [559.29 for Rule 22.2.3.2], [559.30 for Rule 23.2.3.2], [559.31 for Rule 24.2.4.2] and [559.32 for Rule 25.2.4.2] support in part retaining the rules, but seek to amend the rules with additional text. The submitter considers that the matters of discretion are not of sufficient breadth to understand the nature of impacts on the MSOS of any proposed earthworks.
162. I am of the opinion that the rule is sufficient to address this issue. The earthworks rules for MSOS and MAOS are specific and trump the other earthworks rules when in these areas (farming practices would be permitted outside of these areas). If a landowner wishes to carry out earthworks within a scheduled site or area, they would need a consent application which supplied the reason and the impacts on the site in order for Council’s discretion to be exercised on location and effects on heritage cultural values. I do not consider that there is a need to specify reasons for undertaking earthworks in the rule. MSOS and MAOS are also noted as an archaeological matter, and an applicant must also meet an authority approval from HNZPT to modify or destroy a site.
163. I therefore recommend accepting in part Heritage New Zealand’s submissions to retain the earthworks rule, but rejecting the additional text to amend the rule as unnecessary, as discussed above.
164. Further submissions from Riverdale Group Limited [FS/271.3 and FS/271.4] and Federated Farmers [FS/342.136, FS/342.137, FS/342.138 and FS/342.139] oppose the submissions from Heritage New Zealand Lower Northern Office [559.22, 559.23, 559.29 and 559.30], which seek to add specific applications of the rule to ancillary earthworks and rural ancillary earthworks. I recommend that the opposition be accepted in part. Normal farming practices of farm tracks, fencing, along with agricultural farming, have taken place over the years and resulted in damage to Maaori archaeological sites. The scope of any earthworks on private land is reliant on the goodwill of the land owner. It is difficult to monitor this situation, but I recommend that all earthworks on an MSOS or MAOS be subject to consent.
165. Heritage New Zealand [559.33] sought a separate schedule to Chapter 30.6 of significant Waahi Tapu sites in the Proposed Plan to identify “Te Aukati Ki Mangatawhiri”, “Meremere”, “Te Teo Teo” and “Rangiriri”, as identified by the Heritage New Zealand Waahi Tapu Listing. Heritage New Zealand sought inclusion of a new rule classing new ancillary earthworks and new rural ancillary earthworks within these sites as a discretionary activity.
166. I do not consider this separate identification to be necessary. They are waahi tapu sites associated with the NZ Maaori Wars and they are included in the MAOS Chapter 30.4 as

areas all important and of significance to Maaori. For that reason I recommend that [559.33] be rejected.

167. Further submission from Federated Farmers [FS/342.140] opposes Heritage New Zealand Lower Northern Office [559.33] and supports the notified planning approaches, being appropriate in context. I recommend that the further submission be accepted.
168. In relation to the earthwork provisions, Heritage New Zealand [559.34] asks to add a new non-complying rule to each chapter. The submitter is concerned that there is no rule relating to the destruction of any MSOS or MAOS (Waahi Tapu or Waahi Tapu Area), and that the absence of a rule would result in the Plan being unable to give effect to the objective that “the relationship with ancestral lands, water...waahi tapu are protected and enhanced”.
169. I do not believe that a non-complying rule is necessary. In my opinion, the provisions of the PWDP provide for the ‘relationship’ of Maaori to their sites and taonga, along with the provisions of the Heritage New Zealand Pouhere Taonga Act through the Trust, to protect and enhance MSOS and MAOS.
170. Policy 2.15.1 Ngaa taonga tuku iho (Maaori Sites and Areas of Significance) of the PWDP states:
- (a) Ensure subdivision, use and development **does not compromise** the cultural and spiritual significance of areas, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora and fauna.
 - (b) Areas and sites of significance to Maaori including waahi tapu sites and waahi tapu areas are **protected from adverse effects of development or activities on those sites.** [emphasis added]
171. The Policy is not asking for non-compliance but is asking for discretion when development is undertaken. Therefore, it is supported by the earthworks rule for MSOS and MAOS.
171. I consider that the proposed earthworks rule is the most appropriate approach to achieve the objectives for identified MSOS and MAOS. It can provide Iwi/Mana whenua the opportunity to participate in the process to maintain their relationship of Maaori to their sites and taonga. Of course, this engagement must take place before any land use consent is granted for land development.
172. It may be helpful to use the town of Rangiriri (even though it is a public site) as an example. Since the first State Highway 1 formation, the road has cut through a Maaori waahi tapu area and the Rangiriri Paa. (This area is between Lake Kopuera and the Waikato River). Today it has been subjected to further destruction and massive modification, but between Iwi/Mana whenua, Ngaa Muka along with Transit New Zealand and Heritage New Zealand, they have collaborated to protect and enhance Maaori relationships with the site of significance to share with others. I therefore find it difficult to support a rule to achieve non-compliance. I recommend that submission [559.34] be rejected.
173. Further submissions from Riverdale Group Limited [FS/271.5] and Federated Farmers [FS/342.134] oppose the above submission [559.34]. I recommend accepting the further submissions on the basis that relationships of Maaori with their sites of significance is recognised and actively supported. I support Federated Farmers’ suggestion of introducing Accidental discovery protocols to the Plan, especially as an advisory note to plan users in appropriate places. This could include advice to contact HNZPT Trust regarding archaeological sites if an applicant wishes to modify or destroy a site.
174. Heritage New Zealand [559.237 and 559.238] suggests that an Advice Note be included in the introduction to Schedule 30.3 and 30.4 to reference the Heritage New Zealand Pouhere Taonga Act 2014 and draw attention to the need to contact Heritage New Zealand Pouhere Taonga when undertaking development in proximity to the sites listed in the Schedules. I

recommend accepting this suggestion. Further submissions by Pareoranga Te Kata [FS1035.93 and FS1035.94] and Whaingaroa Environmental Defence Inc Society [FS1276.187] all support submissions [559.237 and 559.238]. I recommend that their support to be accepted.

175. The further submission from Whaingaroa Environmental Defence Inc Society [FS1276.187] also draws attention to the Planning Maps being very hard to read and that the sites are not easily found on the hard copies of the Proposed planning maps. This is true because of the scale of the printed pages, and it is difficult to show sites located on specific properties. The Proposed planning maps are designed for digital use and will be more readily used in that way and better seen in the future. All the MSOS and MAOS sites are identified by their NZAA archaeological reference number or in a cluster area under an MAOS number. Any reference to a site is brought to the attention of anyone making an enquiry about a property in the district or making an application for consent.
176. Federated Farmers of NZ [680.203 and 680.204] ask to add a matter of discretion to Rule 22.2.3.2 which would ensure that the functional and operational need be considered as a matter of discretion. This matter has been similarly discussed in paragraphs 162 and 164. I believe it is unnecessary to add further matters of discretion for the reasons discussed, and that Council's discretion and the overarching protection of the Heritage New Zealand Pouhere Taonga Act, along with landowners' goodwill to support resource management, are sufficient to achieve the objective. "Waikatotanga" – cultural practices and beliefs of Tangata Whenua - are respected (Tangata Whenua 2.15). The matters of discretion are focused on the cultural effects of damaging the site, and in my opinion this is appropriate. I recommend that the panel reject the submission that additional matters of discretion be rejected, for the reasons discussed above.
177. I recommend that the further submissions by Riverdale Group Limited [FS1271.6 and FS1271.7] supporting Federated Farmers be rejected for the above reasons.
178. I recommend that the further submissions Heritage New Zealand Pouhere Taonga [FS1323.25 and FS1323.26] opposing submissions by Federated Farmers [680.203 and 680.204] be accepted.
179. Sharp Planning Solutions Ltd [695.128] submission refers to the 100 metre buffer for protection of an MSOS and MAOS. This provision was an approach floated in the draft Proposed District Plan but was not carried into the notified version of the PDP, and does not apply. The rule for an MSOS applies within the delineated area as shown on the planning maps, or is within a property identified for a MAOS. I recommend that the primary submission and further submission in support by Heritage New Zealand Pouhere Taonga [FS1323.20] be rejected.
180. Sharp Planning Solutions Ltd [695.129] asks to amend Rule 24.2.4.2 P1(a) Earthworks for MSOS and MAOS to provide a zone-specific trigger or set an earthworks threshold. The ultimate goal is to provide protection for MSOS and MAOS, however if there is to be any modification of a site, the restricted discretionary rule and overarching provisions previously discussed in paragraphs under this section are sufficient to meet the objective of the earthworks rule. I therefore recommend that this amendment be rejected and to accept Heritage New Zealand Pouhere Taonga [FS1323.21] further submission opposing [695.129]. Some sites have been destroyed by forestry and modified gardens, therefore I believe that it is appropriate that any earthworks be considered.
181. Submitter Michael Briggs on behalf of Harrison Grierson Consultants [343.26] asks to delete the earthworks rule and MSOS in reference to the Rangitahi Structure Plan, stating that there were no MSOS recorded in Rangitahi. I agree with the submitter, and recommend that the panel accept submission [343.26].

182. Andrew and Christine Gore [330.82] referred to Rule 22.2.3.2 Earthworks - Maori Sites and Maori Areas of Significance, but as their submission contained no decision sought, I am unable to further consider their submission.

8.3 Recommendations.

183. For the reasons above, I recommend that the Hearings Panel:
- a. **Reject** Angeline Greensill – Tainui o Tainui [942.78 and 942.89].
 - b. **Reject** Julie Caddigan [307.1].
 - c. **Reject** Ruakiwi Graziers Ltd [340.3].
 - d. **Accept in part** Heritage New Zealand [559.19 for Rule 16.2.4.2], [559.20 for Rule 17.2.5.2], [559.21 for Rule 18.2.4.2], [559.22 for Rule 22.2.3.2], [559.23 for Rule 23.2.3.2], [559.24 for Rule 24.2.4.2], [559.25 for Rule 25.2.4.2], [559.26 for Rule 16.2.4.2], [559.27 for Rule 17.2.5.2], [559.28 for Rule 18.2.4.2], [559.29 for Rule 22.2.3.2], [559.30 for Rule 23.2.3.2], [559.31 for Rule 24.2.4.2] and [559.32 for Rule 25.2.4.2].
 - e. **Accept in part** Riverdale Group Limited [FS1271.3 and FS1271.4] and Federated Farmers further submissions [FS1342.136, FS1342.137, FS1342.138 and FS1342.139].
 - f. **Accept** Federated Farmers [FS1342.140] support to the notified planning approach as appropriate.
 - g. **Reject** Heritage New Zealand Lower Northern Office [559.34] submission to add a non-complying rule with a provision against destruction or an amendment of a waahi tapu site. Section 42 of the HNZPT Act is sufficient.
 - h. **Accept** Riverdale Group Limited [FS1271.5] and Federated Farmers [FS1342.134] submissions opposing the addition of a non-complying rule.
 - i. **Accept** Federated Farmers [FS1342.134] and suggestion of introducing Accidental Discovery Protocols and Mercury Energy [FS1388.797].
 - j. **Accept** Heritage New Zealand [559.237 and 559.238] submission to incorporate the use of Advisory Notes in regard to informing applicants that the sites are also subject to the Heritage New Zealand Pouhere Taonga Act requirements.
 - k. **Accept** further submissions by Pareoranga Te Kata [FS1035.93 and FS1035.94] in support of [559.237 and 559.238].
 - l. **Accept** Further submission by Whaingaroa Environmental Defence Inc Society [FS1276.187] also in support of [559.237].
 - m. **Reject** Federated Farmers [680.203 and 680.204].
 - n. **Reject** Riverdale Group Limited [FS1271.6 and FS1271.7] further submissions.
 - o. **Accept** Heritage New Zealand Pouhere Taonga [FS1323.25 and FS1323.26] further submissions.
 - p. **Reject** Sharp Planning Solutions Ltd [695.128] submission and Heritage New Zealand Pouhere Taonga [FS1323.20].
 - q. **Reject** Sharp Planning Solutions Ltd [695.129].
 - r. **Accept** Heritage New Zealand Pouhere Taonga [FS1323.21] opposing [695.129].
 - s. **Reject** the submission from Andrew and Christine Gore [330.82].
 - t. **Accept** Michael Briggs on Behalf of Harrison Grierson Consultants [343.26].

8.4 Amendments

184. I recommend the following advice note be added below the earthworks rule in each zone chapter, and ultimately be included in the new chapter called “Sites and areas of significance to Maori” as required by the National Planning Standards:

Advice note: The Maaori Sites and Areas of Significance are also recorded archaeological sites and may also contain unrecorded archaeological sites. These sites are subject to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological assessment to determine the need for an archaeological authority. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites.

9 Submissions by Waikato District Council to amend earthworks rules

9.1 Introduction

184. Waikato District Council made ten submissions asking for changes to the rules on Earthworks – Maaori Sites and Maaori Areas of Significance, in the Residential, Business, Rural, Country Living, Village and Reserves zones. The rules in each zone require consent as a restricted discretionary activity for earthworks within a Maaori site or area of significance, but have slight wording differences. This group of submissions asks for wording changes with a common theme of bringing consistent wording across the rules. Further submissions were lodged on each of these submissions.

9.2 Submissions

185. 10 submission points were received and 18 further submission points.

Submission Point	Submitter	Summary of Submission
697.107	Waikato District Council	Amend Rule 16.2.4.2 RDI Earthworks-Maori Sites and Maaori Areas of significance to read as follows: <i>(a) Earthworks within a Maaori Site of Significance as identified in Schedule 30.3 (Maaori Site of Significance) and as shown on the planning maps.</i>
FSI 108.2	Te Whakakitenga o Waikato Inc	Support 697.107
FSI 139.2	Turangawaewae Trust Board	Support 697.107
697.108	Waikato District Council	Amend 16.2.4.2 RD2 Earthworks-Maori Sites and Maaori Areas of Significance as follows: <i>(b) The Council's discretion is limited restricted to the</i>

		<p>following matters:</p> <p>(i) Location of earthworks in relation to the site</p> <p>(iii) Effects on heritage and cultural values.</p>
FS1323.12	Heritage New Zealand Pouhere Taonga	Oppose 697.108
697.182	Waikato District Council	<p>Amend Rule 17.2.5.2 Earthworks - Maori Sites and Maori Areas of Significance, as follows:</p> <p>(a) Earthworks within a Maaori site of significance as identified in Schedule 30.3 (Maaori site of Significance) as shown on the planning maps..</p> <p>(b) Earthworks within a Maaori area of significance as identified in Schedule 30.4 (Maaori area of Significance) as shown on the planning maps.</p> <p>(c) Council's discretion is <u>restricted</u> limited to the following matters:</p> <p style="padding-left: 40px;">(i) Location of earthworks in relation to the site;</p> <p style="padding-left: 40px;">(ii) Effects on heritage and cultural values.</p> <p>AND</p> <p>Add new P2 as follows:</p> <p><u>P2</u></p> <p><u>(a) Earthworks within a Maaori area of significance as identified in Schedule 30.4 (Maaori area of Significance) as shown on the planning maps.</u></p> <p><u>(b) Council's discretion is restricted to the following matters: (i) Effects on heritage and cultural values.</u></p>
FS1323.23	Heritage New Zealand Pouhere Taonga	Support 697.182
697.264	Waikato District Council	<p>Amend Rule 17.2.5.2 Earthworks - Maori Sites and Maori Areas of Significance, as follows:</p> <p>(a) Earthworks within a Maaori site of significance as identified in Schedule 30.3 (Maaori site of Significance) as shown on the planning maps.</p> <p>(b) Earthworks within a Maaori area of significance as identified in Schedule 30.4 (Maaori area of Significance) as shown on the planning maps.</p> <p>(c) Council's discretion is <u>restricted</u> limited to the following matters:</p> <p style="padding-left: 40px;">(i) Location of earthworks in relation to the site;</p> <p style="padding-left: 40px;">(ii) Effects on heritage and cultural values.</p> <p>AND</p> <p>Add new P2 as follows:</p> <p><u>P2</u></p>

		<p><u>(a) Earthworks within a Maaori area of significance as identified in Schedule 30.4 (Maaori area of Significance) as shown on the planning maps.</u></p> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><u>(i) Effects on heritage and cultural values.</u></p>
FS1323.13	Heritage New Zealand Pouhere Taonga	Oppose 697.264
697.771	Waikato District Council	<p>Amend Rule 22.2.3.2 PI (a) Earthworks - Maaori Sites and Maaori Areas of Significance, as follows:</p> <p><u>(a) Earthworks within a Maaori site of significance as identified in Schedule 30.3 (Maaori sites of Significance) and as shown on the planning maps.</u></p> <p>AND</p> <p>Amend Rule 22.2.3.2 PI (b) Earthworks - Maaori Sites and Maaori Areas of Significance as follows:</p> <p><u>(b) Council's discretion is restricted to the following matters:</u></p> <p><u>(i) location of activity in relation to the site; effects on heritage and cultural values.</u></p>
FS1271.8	Riverdale Group Limited	Oppose 697.771
FS1323.17	Heritage New Zealand Pouhere Taonga	Oppose 697.771
697.772	Waikato District Council	<p>Delete matter of discretion from Rule 22.2.3.2 RD2 (b) Earthworks-Maaori Sites and Maaori Areas of Significance, as follows:</p> <p><u>(1) location of activity in relation to the site, effects on heritage and cultural values;</u></p>
FS1271.9	Riverdale Group Limited	Oppose 697.772
FS1108.25	Te Whakakitenga o Waikato Inc	Support 697.772
FS1139.24	Turangawaewae Trust board	Support 697.772
FS1323.14	Heritage New Zealand Pouhere Taonga	Support 697.772
697.866	Waikato District Council	Delete Rule 23.2.3.2 RD2 (b)(i) Earthworks - Maaori Sites and Maaori Areas of Significance.
FS1323.15	Heritage New Zealand Pouhere Taonga	Oppose 697.866
FS1323.18	Heritage New Zealand Pouhere Taonga	Oppose 697.866
697.954	Waikato District Council	Amend Rule 24.2.4.2 PI Earthworks-Maaori Sites and Maaori Areas of Significance, as follows:

		<p>RD1 P1 (a) Earthworks within 100m of a Maori site of significance as identified in Schedule 30.23 (Maori sites of Significance) must submit to Council as shown on the planning maps:</p> <p>(i) A cultural assessment from the appropriate mana whenua representative/s that demonstrates that there will be no adverse effects on cultural values.</p> <p>(b) Earthworks within a Maori area of significance as identified in Schedule 30.4 (Maori area of Significance) must submit to Council:</p> <p>(ii) A cultural assessment from the appropriate mana whenua representative/s that demonstrates that there will be no adverse effects on cultural values.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) location of activity in relation to the site;</p> <p>(ii) effects on heritage and cultural values.</p>
FS1323.19	Heritage New Zealand Pouhere Taonga	Support 697.954
697.955	Waikato District Council	<p>Amend Rule 24.2.4.2 RD1 Earthworks-Maori Sites and Maori Areas of Significance, as follows:</p> <p><u>RD1</u></p> <p>(a) Earthworks that do not comply with a condition of Rule 24.2.4.2 P1 Earthworks within a Maori area of significance as identified in Schedule 30.4 (Maori Areas of Significance) and shown on the planning maps.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Location of activity in relation to the site</p> <p>(ii) Effects on heritage and cultural values.</p>
FS1323.22	Heritage New Zealand Pouhere Taonga	Oppose 697.955
697.1028	Waikato District Council	<p>Amend Rule 25.2.4.2 RD2 Earthworks - Maori Sites and Maori Areas of Significance, as follows:</p> <p>(b) The Council's discretion shall be <u>is limited restricted</u> to the following matters:</p> <p>(i) Location of earthworks in relation to the site;</p> <p>(ii) Effects on heritage and cultural values.</p>
FS1108.29	Te Whakakitenga o Waikato	Support 697.1028
FS1139.28	Turangawaewae Trust	Support 697.1028

	<i>Board</i>	
<i>FS1323.16</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose 697.10281</i>

9.3 Analysis

186. The submission points from Waikato District Council are repetitive, seeking several wording changes to the MSOS and MAOS earthworks rules in the Residential, Business, Rural, Country Living, Village and Reserves zones. Similar points are grouped in this analysis.
187. Waikato District Council [697.107, 697.108, 697.182, 697.264, 697.771 and 697.1028] highlight wording differences between the earthworks rules as notified. The submissions seek a number of changes. I will first consider the common theme asking for wording changes to achieve consistency across all the zones.
188. Further submissions in support were made by Te Whakakitenga o Waikato [FS1108.2, FS1108.25, FS1108.29] and Turangawaewae Trust Board [FS1139.2, FS1139.24, and FS1139.28]. Heritage NZ Pouhere Taonga lodged further submissions opposing some of these submissions and supporting others [FS1323.12, FS1323.23, FS1323.13, FS1323.16, and FS1323.17].
189. None of the further submissions oppose the underlying concept of consistency across the rules. The opposing further submissions are aimed at other aspects of the submitted changes, discussed later in this section.
190. I accept that there should be the same wording of the rule in each zone to ensure that the same level of protection of MSOS and MAOS is achieved in each zone and to achieve the relevant Objectives 2.14 and 2.15, which apply to the whole district.
191. Consistency of wording is also desirable to comply with the National Planning Standards, which require presentation of these rules in a single chapter of the plan. The most logical presentation will be a single rule that applies across all the zones. Given that the objectives, policies and rules regarding Maaori areas and sites of significance will be combined into a single chapter as required by the National Planning Standards, a single consistent rule is the most efficient approach.
192. For these reasons, [697.107, 697.108, 697.182, 697.264, and 697.1028] are recommended to be accepted in part, to the extent that a consistently-worded rule is recommended for each zone, including the common elements from the rules as notified. Further submissions in support are accepted in part to the same extent. Further submissions opposing are recommended to be rejected.
193. I now discuss the other aspects raised in the Waikato District Council submissions. Submissions [697.108, 697.182, 697.264, 697.771, 697.772, 697.866, 697.954, 697.955 and 697.1028] seek to amend Rules 16.2.4.2, 17.2.5.2, 22.2.3.2, 23.2.3.2, and 24.2.4.2 by deleting Matter of discretion (i) relating to the location of earthworks in relation to sites. As notified, the matters of discretion in these rules are:
- Council's discretion shall be restricted to the following matters:
- (i) location of activity in relation to the site;
 - (ii) effects on heritage and cultural values.
194. Further submissions from Riverdale Group [FS1271.8 and FS1271.9] oppose the change to the Rural Zone. Heritage NZ Pouhere Taonga further submissions also oppose the changes in most of the rules [FS1323.23, FS1323.14, FS1323.15, FS1323.18, FS1323.19] but support changes to MAOS rules in the Rural, Country Living, Village and Reserves zones.

195. I consider that this matter of discretion should be retained in both the MAOS and MSOS rules, to allow flexibility to address cases where the specific location of earthworks is a relevant consideration. I accept that the location of an activity in relation to the site will not be a relevant consideration with every application. It is potentially less relevant for MSOS which relate to paa, and for earthworks anywhere within an identified site on culturally-significant land. However, MAOS apply to an entire property or title, therefore earthworks within that title may potentially be on an area of less significance within the site. It is effective and efficient for the location of an activity in to remain as a matter of discretion. These submissions and the further submissions in support are recommended to be rejected, the further submissions in opposition accepted.
196. Submissions [697.182 and 697.264] seek to add new “P2” (i.e. permitted activity) rules for earthworks on MSOS and MAOS in the Business Zone. This may be a typographical error, because the submissions also mention matters of discretion. A restricted discretionary rule may have been intended. If the submissions are seeking permitted activity status for earthworks in MAOS or MSOS, I consider this inappropriate to achieve Objectives 2.14 and 2.15, and I recommend that these submissions be rejected. If the submissions are seeking changes to the restricted discretionary wording, then I would reject that, for the reasons above. Heritage NZ Pouhere Taonga [FS1323.23 and FS1323.13] are recommended to be rejected accordingly.

9.4 Recommendations

- a. **Accept in Part** Waikato District Council [697.107, 697.108, 697.182, 697.264, 697.771, 697.866, 697.954, 697.955 and 697.1028], to the extent that a consistently-worded earthworks rule in MSOS and MAOS be inserted in each zone.
- b. **Accept in Part** further submissions from Te Whakakitenga o Waikato [FS1108.2, FS1108.25, FS1108.29], Turangawaewae Trust Board [FS1139.2, FS1139.24, and FS1139.28] and Heritage NZ Pouhere Taonga [FS1323.23], Heritage NZ Pouhere Taonga further submissions [FS1323.12, FS1323.13, FS1323.14, FS1323.17, FS1323.15, FS1323.18] [FS1323.19] and [FS1323.16].
- c. **Accept in part** Riverdale Group [FS1271.8 and FS1271.9].

9.5 Amendments

197. This rule is to replace the rule in each zone on Earthworks – Maori Sites and Maori Areas of Significance:

Earthworks – Maori Sites and Maori Areas of Significance

<p><u>RDI – Earthworks within a significant Maaori site or area of significance</u></p>	<p>(a) <u>Earthworks within a significant Maaori site or area of significance as identified in Schedule 30.3 and 30.4.</u></p> <p>(b) <u>The Council's discretion is restricted to the following matter:</u></p> <ol style="list-style-type: none"> (i) <u>Location of earthworks in relation to the Maaori site or area of significance;</u> (ii) <u>Effects on heritage and cultural values.³</u>
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³ [697.107, 697.108, 697.182, 697.264, 697.771 and 697.1028]

9.6 9.5 Section 32AA Evaluation

198. The above rule retains all planning controls from the notified rules. The changes are to standardise the wording and formatting and correct typographical errors. No change to planning outcomes will result. Accordingly, the original s32 report and evaluation continues to justify this rule, and no new s32AA evaluation is required.

10 Other submissions

10.1 Introduction

199. Six primary submission points addressed other aspects of the framework for managing MSOS and MAOS. The submissions addressed:
- Definitions;
 - Iwi areas of interest and the availability of supporting detail;
 - Alignment of maps; and
 - Addition of natural wetlands of historic cultural significance

10.2 Submissions

200. 6 submission points were received and 3 further submission points.

Submission Point	Submitter	Summary of Submission
367.17	Liam McGrath for Mercer Residents and Ratepayers Committee	Retain Chapter 13 Definition of "Maaori Sites of Significance."
680.255	Federated Farmers	Retain the definition of "Maaori Areas of Significance" in Chapter 13 Definitions, as notified. That support is extended to the scheduling approach taken.
680.256	Federated Farmers	Retain the definition of "Maaori Areas of Significance" in Chapter 13 Definitions, as notified. That support is extended to the scheduling approach taken.
695.2	Sharp Planning Solutions Ltd	Add Iwi areas of interest on Planning Maps, and list site-specific properties known for existing mana whenua interests as occurs within the Auckland Unitary Plan, and the reasons for this (except where such information is not appropriate to publicly disclose).
697.338	Waikato District Council	Amend alignment of Maaori sites and areas of significance on the planning maps. AND Where appropriate group and number the sites together to avoid overlapping.
<i>FSI 108.4</i>	<i>Te Whakakitenga o Waikato</i>	<i>Support 697.338</i>
<i>FSI 139.4</i>	<i>Turangawaewae Trust</i>	<i>Support 697.338</i>

Submission Point	Submitter	Summary of Submission
	<i>Board</i>	
<i>FS1323.150</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support 697.338</i>
55.7	Shelley Munro	Amend heritage areas or designations to include the natural wetlands where Maaori tribes once fished for eels and harvested flax, etc.

10.3 Analysis

201. Submissions from Mercer Residents and Ratepayers Committee [367.17] and Federated Farmers [680.255 and 680.256] support retaining the definitions for MSOS and MAOS in Chapter 13. I recommend that these submissions be accepted.
202. Submitter Sharp Planning Solutions Ltd [695.2] has asked that Iwi/Mana whenua areas of interest be added to the Planning Maps. This is not a provision that is to be included on the district planning maps, but Iwi/Mana whenua information can be obtained from Council. Iwi sites and areas of significance are listed in Schedules 30.3 and 30.4, which correspond to an identified New Zealand Archaeological Association registration number. When an enquiry is being made in relation to a property, any scheduled site or sites will be identified. A cultural report for cultural values will assist Council's discretionary decision if a MSOS or MAOS is to be considered. It is just as important and as necessary as an archaeological, landscape or hazard report. I therefore recommend that this matter be rejected.
203. The submission from Waikato District Council [697.338] seeks to align MSOS, MAOS (including Tainui River Settlement sites), and where appropriate, group and number the sites together to avoid overlapping. This is to ensure that the planning maps reflect the locations accurately and help avoid confusion for the plan user. I recommend that this submission be accepted and amending the maps where appropriate. Further submissions from Te Whakakitenga o Waikato [FS1108.4], Turangawaewae Trust Board [FS1139.4] and Heritage New Zealand Pouhere Taonga [FS1323.150] support the accuracy and consistency of mapping.
204. The submission from Shelley Munro [55.7] seeks to amend heritage areas or designations to include natural wetlands where Maaori tribes once fished for eels and harvested flax, etc. Although the topic of this submission is acceptable for the MSOS and MAOS schedules, I recommend that the submission be rejected at this time, pending identification and information from the submitter to support sites of significance.

10.4 Recommendations

205. For the reasons above, I recommend that the hearings panel:
- a. **Accept** Mercer Residents and Ratepayers Committee [367.17]
 - b. **Accept** Federated Farmers [680.255 and 680.256]
 - c. **Reject** Sharp Planning Solutions Ltd [695.2]
 - d. **Accept** Waikato District Council [697.338]
 - e. **Accept** further submissions Te Whakakitenga o Waikato [FS1108.4], Turangawaewae Trust Board [FS1139.4] and Heritage New Zealand Pouhere Taonga [FS1323.150] in support of [697.338]
 - f. **Reject** Shelley Munroe [55.7].

10.5 Amendments

206. There are no amendments recommended in this section of my report arising from the aforementioned submissions, other than to improve the mapping wherever possible to align the maps with the correct locations of MSOS and MAOS.

10.6 S32AA Evaluation

207. No s32AA evaluation has been required to be undertaken, given that I have not recommended any amendments.

11 Conclusion

208. Maaori sites and areas of significance and other taonga are so important to the spiritual, historical, cultural, social and economic wellbeing of our Waikato district, but more important are the mauri and wairua of the Iwi, hapuu and marae's wellbeing. Sites and areas of significance provide signposts of belonging to the whenua, to a kinship of people from the past and of those today.
209. The preparation of the MSOS and MAOS for the District Plan Schedules and District Planning Maps was undertaken to fulfil section 6(e) and (f) of the Resource Management Act 1991, the Heritage New Zealand Pouhere Taonga Act 2014 and to give effect to the Waikato Regional Policy Statement.
210. I consider that the recommended and amended provisions will be effective and efficient in achieving the purpose of the RMA, and the objectives and policies of the PWDP. It is by no means a complete work, but it is a beginning to give recognition to Heritage and Cultural Values and to build appreciation and understanding of Maaori relationships as a matter of national importance.

No rei ra

Nгаа mihi nui kia koutou katoa

Sheryl Paekau