

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing Submissions and Further Submissions on the Proposed Waikato District
Plan (Stage I)

**MEMORANDUM BY COUNCIL TO HEARING COMMISSIONERS RELATING TO MAAORI
AREAS AND SITES OF SIGNIFICANCE
29 March 2021**

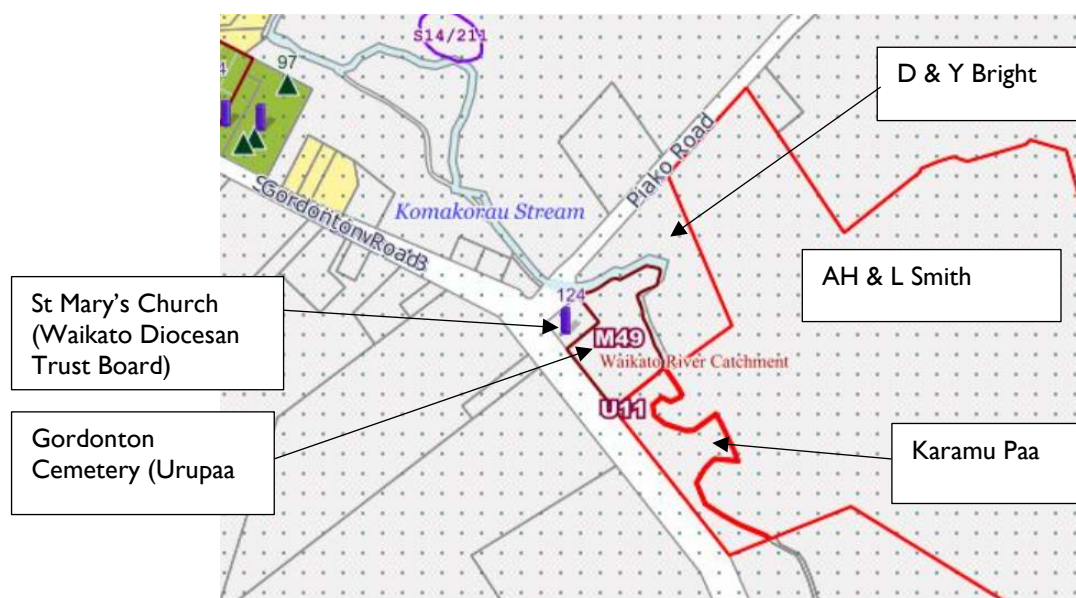
May it please the Hearing Commissioners:

- I. The purpose of this memorandum is to summarise the responses to letters that Council sent out as directed by the Hearings Panel on 28 August 2020. The Directions were as follows in paragraph 5:
 - b. As suggested by Ms Parham, Council staff are to write to each of the landowners listed in paragraph 3 of the information provided by Council staff (reproduced in the table in paragraph 3 above), but not Horotiu Farms Limited, to:
 - i. Inform them that a submission on the proposed plan has stated that their land contains a Maori Site or Area of Significance (as the case may be) and have requested that this be identified as such in the Waikato District Plan;
 - ii. Provide sufficient detail about the relevant Maori Site or Area of Significance so that the landowner can understand what has been requested, why it has been requested and what consequences it would have for their use of that land; and
 - iii. Advise the landowner that the Panel wishes to obtain their views before making any decision on whether or not to accept the submission and/or further submission; and
 - iv. Invite the landowner to provide a written statement setting out their views.
 - c. The results of the process set out in paragraph 5 b above are to be included in the Council's Right of Reply
2. Council wrote to each of the landowners listed in the Hearing Panels' Directions on 21 October 2020 and received a number of responses. Ms Sheryl Paekau was the author of the s42A report for Hearing 20 Maori Areas and Sites of Significance, and this memorandum sets out her consideration of the responses to Council's letters and her officer recommendations.
3. In addition, this memorandum includes analysis of the submission from Ruakiwi Braziers Limited [340.1] regarding 343 Jefferis Road Waerenga.

Corner of Gordonton Road and Piako Road

4. The original submission from Ruruhia Cila Henry [812.1] sought to 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.

Map 1: Location of landowners



Alister and Lauren Smith 187A Piako Road, Gordonton

5. Cooney Lees Morgan responded on behalf of Alister and Lauren Smith and requested that the response be treated as a late further submission (Appendix 1A). The letter stated that the Smiths are aware of the Karamu Paa site and urupaa from the subdivision application which remains as located on the map between the south side of the Komakorau Stream and the Gordonton Road. They support in principle the protection of the Paa site. The letter expressed concern about the lack of evidence supporting the location of the urupaa site and they note that the historical map provided by Dr Kahotea (if it is correct), would only apply to an area to the south of the original alignment of Komakorau Stream and does not support the much more extensive area proposed by Council's planner in the s42A Report, which includes a much larger area of the farm and also crosses the dwelling on the neighbouring property.
6. They seek that the submission by Ms Henry (to the extent that it may seek notation of a wider area as proposed by the reporting officer) be rejected and the notified version of the PDP in relation to the MAOS M49 is confirmed and/or ground-truthing to justify the extension of M49 (the urupaa).
7. The letter contains maps from CKL Surveys Ltd references to plan SO132 1865 which identifies the Paa and Urupaa (cemetery) and where the land was taken under the Public Works Act and transferred to the Waikato County Council in 1925 as well as other maps.

Yvonne Bright 22 Piako Road, Gordonton

8. The response from Ms Bright is contained in Attachment 1B. She provides explanation from the process carried out through their purchase of the section and landuse consent for their home. She explains that Iwi consultation was carried out with Iwi consultant organisations: Nga Mana Toopu o Kirikiriroa, Te Kotuku Whenua and NZ Historic Places and Mrs Henry when she was planning to build a home on the site in 2001. Ms Bright opposes the proposed extent of M49 and seek that the extent of M49 be refined to not include her property.

The Waikato Diocesan Trust (St Mary's Anglican Church) 974 Gordonton Road, Gordonton

9. The response from The Waikato Diocesan Trust is Attachment I C. Dr Bryan Bang Acting Manager for the Board opposes the submission made by Mrs Henry on the basis that the church's understanding is that the church was not wahi tapu as supported by kaumatua from the Hukanui Marae (Ngaati Wairere). The site is, in part, a dedicated cemetery. Dr Bang seeks that should the Hearings Panel decide to allow the submission, then the definition of "earthworks" would need to be construed to include the digging of graves. The lack of such an exemption would mean in practise that no funerals could take place because of the time involved in obtaining resource consent.

Waikato District Council for Gordonton Cemetery, 970 Gordonton Road, Gordonton:

10. No response was received from the relevant team within Waikato District Council.

Planners Response

11. Firstly, it is important that this submission made by Mrs Henry is made clearer. In her submission she asks that the Karamu Paa and Urupaa be identified and included on the planning map on the corner of Gordonton and Piako Roads. When lands were taken for European settlement, and given for churches, Maaori korero speaks about King Tawhaiao exhuming the remains of Maaori chiefs and taking their bones to Taupiri Mountain. Dr Kahotea relates this korero about the Karama Paa and urupaa. It is said that tuupuna of local hapuu still remain there. Although St Mary's Anglican Church occupies part of the land with its own title, it is still used and supported by the Hukanui Marae and Ngaati Wairere whanau. It is also well known that Ngaati Wairere was active participants supporting its Maaori Ministers serving the church and in setting up St Mary's with financial contributions to build the Church. Dr Bang's comments of support by kaumatua are supported also by Mrs Henry.
12. I note that the Church was not treated separately to the Urupaa because it was thought to be part of the whole property. However they were separated under individual titles. The church- Allot 277 Komakorau Parish is owned by the church and the cemetery/urupaa Pt Allot 233 Komakorau Parish, is administered and managed by WDC under Designation M49. There is no associated title. Its intent is a Local Purpose Reserve Gazette 1981 p112. The designated use is an Urupaa/Cemetery therefore earthwork for an internment would not require a resource consent.
13. The outcome of this submission has been incorrectly translated into the maps presented in the Planners S42A Report (refer to paragraph 139, Page 47).

Map 2: Notified planning map



Map 3: Recommended Amendment as contained in the s42A planner's report



14. Map 2 above was defined by the Komakorau Stream as shown by the white outline and the Gordonton Road. This was incorrectly changed by Map 3 defining the area in purple in the s42A planner's report.
15. Although Mrs Henry's and Dr Kahotea's korero about Ngaati Wairere and other hapuu had cultural historical involvement in the land surrounding the subject area, Mrs Henry's submission was solely to have the Karamu Paa and Urupaa recognised as significant. The change to Map 3 was not picked up until this later process.
16. Mr and Mrs Smith do not oppose the existence of the Paa site but are opposed to the line extending over the stream. They suggest ground-truthing the area of the urupaa. It is my understanding that the Komakorau

Stream made that separation. The existence of burrow pits all along the northern side of the stream showed the area was predominately gardened for kumara and rewai however the area beyond the stream was not identified by Mrs Henry.

17. I therefore recommend that the correction be made to the identification of the Karamu Paa and Urupaa according to above map as shown in Map 2. (ie. Between the Gordonton Road and bordered by the Komakorau Stream (as shown in red).

Map 4 Recommended extent of Maaori Area of Significance



Riria Kereopa Memorial Drive, Raglan

18. The original submission was from Rolande Paekau on behalf of Te Whaanga 2B3B2 & 2B1 Ahuwhenua Trust [152.8] seeking to add the waahi tapu located at the end of Riria Kereopa Memorial Drive to Schedule 30.3 MSOS. An acknowledgement was received from the Chair Darcel Rickard, Te Kopua 2B3 Incorporation

supporting the submission made by the Te Whaanga 2B3B2 & 2B1 Ahuwhenua Trust and is in line with their own submission to support the MSOS in the PDP. This is included as Appendix 2A.

19. No response was received from Te Kopua 3 & 4 Ahuwhenua Trust.

Planners Response

20. Although this MSOS is on private property and acknowledged by its owners as such it has been identified because it sits by an area that is continually used by the public for access to the beach at the Whaingaroa Harbour entrance for recreation and fishing. I have not changed my recommendation that this submission be accepted and that the Burial Ground be noted on Te Kopua 3. As highlighted by the response from The Waikato Diocesan Trust, the definition of earthworks or the earthworks rules will have to be amended to allow the site to be continued to be used as an urupaa.

21. **Te Paina Pa, Mercer**

22. The submission from Mercer Residents and Ratepayers Committee [367.52] sought to add Te Paina Pa sites on Riverbank Road, Mercer to Schedule 30.4 Maaori Areas of Significance
23. Letters were sent to the registered landowners being P Smith and Others, and Waikato District Council but no responses were received.

Planners Response

24. Recorded history and photos as shown by Dr Kahotea's Technical Report, the significance to the history of Waikato Tainui Kingitanga and the previous home of Princess Te Puea Herangi and papakainga before she took up residence and established Turangawaewae Marae, Ngaruawahia for Waikato whanau. The land and the area on Riverbank Road Mercer is recognised as Te Paina, their former home.
25. Koheroa 90A Block. Identified as above Maaori Owners Site identified as the relocated site of the Te Paina Paa (Prop 303646)
26. Koheroa 90B Block. Associated Title NA 399/204 Freehold Its intent is Public Domain NZ Gazette 1949 p1456 Forms part of the Mercer Domain
27. NZAA S12/273 Cultivation area , Maaori horticulture– (Lot 90B), Cultivations were on survey plan SO 4782 described as Native cultivations. It appears they were all along the Waikato RiverBank and Mercer Domain are now situated here. The cultivations have almost certainly been destroyed through road and stopbank construction. (NZAA Site Record NZMS260)
28. In my S42a report I recommended that submission 367.52 be accepted however it is my understanding now that Lot 90B is being reviewed to transfer the administration of the block from WDC to the Department of Conservation.
29. **Borrow pits at 5851 Great South Road, Ngaruawahia**

30. The original submission from Ngaati Tamainupo [962.I] sought inclusion of the borrow pits as a Maaori Site of Significance. A response was provided by Perjuli Development Limited (Appendix 4). The response expresses a number of procedural concerns, including that the Hearings Panel chose to accept the late submission from Ngaati Tamainupo and Council did not notify Perjuli who was the landowner. Notwithstanding the procedural matters raised, Perjuli Development Limited considers that the subject borrow pits are heavily modified, damaged, and sit within private land that has only recently been zoned for residential land use, pursuant to a fully publicly notified process. The response notes that Heritage NZ has assessed that the borrow pits do not have archaeological significance. The landowner contends that to assign MSOS status to the borrow pits based on Submission 962.I would lack robustness, consistency, and would have concerning precedent effects. As the piece of land has been strategically considered through PC17, a more balanced approach to environmental and urban growth pressures than is contained in the Submission and the section 42A report is necessary.
31. Perjuli Development Limited oppose submission 962.I in its entirety as it relates to the highly modified and remnant borrow pits located at 585I Great South Road, Ngāruawāhia. Perjuli Development Limited accepts that borrow pits in the area may be of historic and/or cultural interest to mana whenua. Some borrow pits are present on the property. However, it considers there are also many borrow pits in areas nearby that are not part of the property. Perjuli Development Limited considers the selective delineation of these features being significant under the MSOS policy overlay is arbitrary, ad hoc and inappropriate when considering the wider physical and planning environment.

Planners Response

32. I do not provide reply to all of Perjuli's submission because I do not agree with the argument put forward, however I make the following comments. Council's position on Late Submission received is referred to in the Second Direction from Hearing Commissioners 26 June 2019. Council recommended that 25 late submissions be allowed (Appendix 4B), and Ngaati Tamainupo's submission was one of these.
33. The submissions are logged and filed and then were provided for the s42A Writers who address each submission. This was approximately late November 2019 when this separating work began. During engagement with Ngaati Tamainupo in early March 2020 they gave details of Perjuli, the developers they were consulting with about the borrow pits. An approach was made by contacting Perjuli via emails to Mr Brent Glover and Craig Blackmore on 13 March 2020 seeking permission for discussion and access to 585I Great South Road, Ngaruawahia for myself, Archaeologist/Antropologist Dr Des Kahotea, and the submitters. Because the appointment and access was denied, a further email was sent explaining the submission with attachments thus bringing the issue to their attention to be addressed. (Appendix 4C & D). Appendix 4D includes the attachments of the submission information.
34. My position as a Policy Planner is to identify and support the MSOS and MAOS project in accordance with RMA 6(e). The support of this submission does not provide access to private land or support the protest and occupation events of the land. As I understand these events were escalated by Ngaati Tamainupo as a result of the archaeological excavation of the borrow pits taking place and lack of communication.

35. The remaining point that I address is the matter identified as conflict of interest. I make no apology for this. I have worked for Council for nearly 36 years and formed relationships with all hapuu and marae in the district. As part of Maaori tikanga, whakawhanaungatanga is very important to the engagement process, to make connections to who you are, where you come from and your Kaupapa/theme is known to your audience, so it has been important in the gathering of information of the sites of significance. It is good to identify common ground which is usually by whakapapa. Because of my connections here in Waikato and Maniapoto it is common for me to have whakapapa links. Therefore in my s42A Report I made the connections that were relevant to this process and where submitters or participants were particularly involved.
36. I have not changed my recommendations as a result of the response from Perjul Development Ltd. I support my comments in my s42A report (para 93-99). The site is significant to the hapuu for the reasons they claim is a “taonga tuku iho.” Dr Des Kahotea assessment supports their cultural claim and the horticultural significance they associate with the Pukeiaahua Paa site.

343 Jefferis Road, Waerenga

37. The submission from Ruakiwi Braziers Limited [340.1] was unclear but made reference to Maaori Sites of Significance S13/119 and S13/141 on Jefferis Road as being unconfirmed. Dr Kahotea undertook an examination of the documentation held by NZ Archaeological Association of previous colleague's field assessments and also carried out a field visit on the 6 February 2021. A drone was used to examine both ridges S13/119 and S13/141.
38. His concluding comments are that the paa site S13/119 recorded by Owen Wilkes in 2004 is the paa site S13/141 he recorded in 2002. There is no paa on the ridge where he recorded S13/119. Changes were made to the file of S13/119 stating by a field visit and examination of maps S13/119 was not a paa, nor were there any archaeological features. This was done through the online NZAA Site Recording Scheme as a registered NZAA member user. The S13/141 paa was also updated online.

Planner's recommendation

39. I have checked the NZAA recorded data against Dr Kahotea's conclusions. I agree with his conclusions regarding archaeologist Owen Wilkes' report. This also aligns with the comments made on the day of our first site visit with Mr Jefferis Senior and his son Stuart who have farmed the property for many years and said that they have seen no evidence of a Paa site on the location of S13/119. The google image I have included below of S13/141 shows the trench outline of this recorded paa which agrees with the original surveyor. I therefore recommend deleting S13/119 from the planning maps and retaining S13/141.

40.

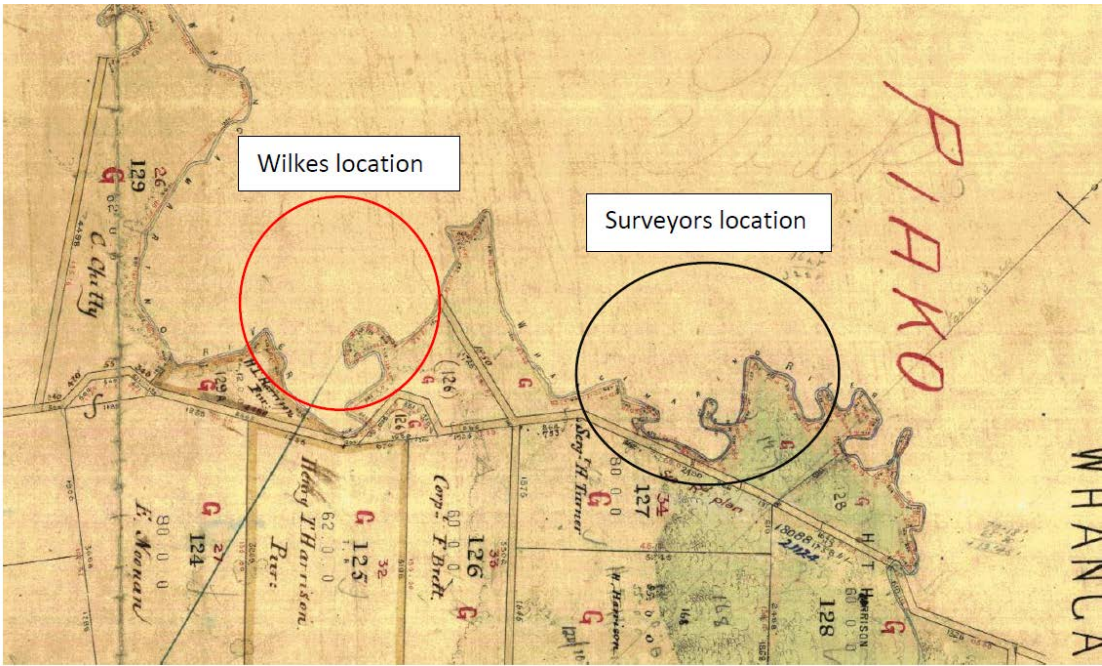


Figure 2 SO613 1867 showing Whangamarino River Boundary of Lot 27

Dated at Ngaruawahia this 29 March 2021

Sheryl Paekau
Kaiwhakamahere
Policy Planner / Advisor

2 December 2020

Ref: 569363-10

Will Gauntlett
Resource Management Policy Team Leader
Waikato District Council
Private Bag 544
NGARUAWAHIA 3742

EMAIL: will.gauntlett@waidc.govt.nz

Dear Will,

PROPOSED DISTRICT PLAN - SUBMISSION REGARDING MAORI SITES OF SIGNIFICANCE

1. We have been instructed by Alister and Lauren Smith (the **Smiths**) who own a dairy farm at 187A Piako Road, Gordonton (**Smith Property**).
2. We have been provided with a copy of a letter dated 21 October 2020 (received 29 October 2020) (**Letter**) in relation to the proposed Waikato District Plan (**Proposed Plan**). The Letter refers to a submission on the Proposed Plan by Ruruhia Cila Henry (Submission 812.1) (**Submission**) seeking an amendment to the Proposed Plan to 'include the Karamu Paa and Urupa as waahi tapu on the corner of Gordonton Road and Piako Road'. The Letter refers to a report by Dr Des Kahotea, and the planner's report which recommends that a Maaori Site or Area of Significance (**MAS**) be placed over the Smith Property and identified as such in the Proposed Plan.
3. We also understand from the Letter that the Hearing Panel are cognisant of the fact that landowners may not be aware that submissions have been lodged which would affect their property, and have invited landowners to provide a written statement setting out their views.
4. We have reviewed the notified version of the Proposed Plan, which showed an area on the corner of Gordonton Road and Piako Road as a MAS (M49) and neighbouring Urupa (U11). That property is St Mary's Anglican Church and the Gordonton Cemetery and is not in issue.
5. We have also considered the Submission lodged by Ms Henry. In our view, that Submission was not sufficient to place the Smiths on notice that a Maaori Site or Area of Significance could potentially be placed over the wider area now proposed by the reporting officer, including the neighbouring Smith Property. The Submission by Ms Henry refers to a notation over sites on the corner of Gordonton Road and Piako Road, and not to the extent which now appears to be proposed by the reporting officer for Waikato District Council (**Council**). No maps or further details were provided in the Submission which would have alerted the Smiths to the amendments now proposed by the reporting officer.
6. The Smiths appreciate the directions provided by the Hearings Panel, who have clearly recognised the issue regarding lack of engagement with relevant landowners. However, they note that the Panel's directions are to invite the landowner to 'provide a written statement setting out their views'.

7. For the avoidance of doubt, the Smiths respectfully request that this letter be treated as a further submission under clause 8 of the 1st Schedule to the Resource Management Act 1991 (**RMA**), being a party that has an interest greater than the public generally. The Smiths acknowledge that the further submission is out of time, but the Hearings Panel has the ability to waive compliance with the time limit under s37 RMA. In this instance, the Smiths clearly meet the grounds for waiver set out in s37 RMA, as it is in the interests of the Smiths (being directly affected by the Council's proposal), and in the interests of the community in achieving an adequate assessment of the effects of the Proposed Plan, that the further submission be accepted.
8. It is considered that there will not be unreasonable delay in accepting the late further submission, as the Smiths are not seeking to reconvene the hearing or to be heard in relation to their submission. Rather they seek that the issues contained within this letter are considered by the Hearings Panel prior to issuing its decisions on the submissions. In order to ensure technical compliance with the requirements of the RMA (if the Hearing Panel is prepared to grant a waiver and accept this letter as a further submission), this letter follows the requirements of Form 6.

Clause 8 of Schedule 1, Resource Management Act 1991

To: Waikato District Council

Name of person making further submission: Alister and Lauren Smith

This is a further submission in opposition to a submission on the following proposed plan (the **proposal**): Proposed Waikato District Plan

I am a person with an interest in the proposal that is greater than the general public has. The grounds are set out further below in this letter.

I oppose the submission of Ruruhia Cila Henry (Submission 812.1). I oppose the whole of the Submission. I seek that the whole of the Submission is disallowed. Given the current point in the plan process, I do not seek to be heard in support of my further submission.

The reasons for my opposition are set out below.

Smith Property

9. The Smith Property is an operational dairy farm. The Smith Family has a long association with this area dating back to the 1930s when Alister Smith's grandfather settled at Gordonton. Alister's wife, parents and wider family members are all buried at the Gordonton Cemetery. Alister is the third-generation farming in Gordonton. He took ownership of the wider farm in 1985 on the death of his father, and in 2014 extended the farm by acquiring the neighbouring property, which is the subject site. The Smiths private residential property is located at 187A Piako Road, Gordonton.
10. Being an operational farm, the Smiths graze the property with cows and regularly undertake maintenance and construction of farming facilities at the property, including fences, farm tracks, roads, stock races, farm drains, water troughs and pipes. In the past the Smith Property has also been used for cultivation (planting, growing, harvesting a crop e.g. maize). As such the Smith Property is already highly modified.

11. While the Smiths support, in principle, the protection of sites of significance, they are concerned about the lack of evidence supporting both the location of the Pa site and the extent of MAS proposed in the s42A Report.
12. As noted above, the Submission by Ms Henry did not provide any description of the extent of the Pa site. It is unclear from the Letter whether any further evidence was provided by Ms Henry at the hearing. The Smiths have considered the report provided by Dr Kahotea. Although it refers to a 'field visit' under Section 14.1, it is not clear whether Dr Kahotea actually visited the Smith Property. If he did, the Smiths were not contacted in advance or made aware of his visit. It appears from the report that a full assessment or 'ground-truthing' was not undertaken by Dr Kahotea if he did visit the site.
13. Rather, the only evidence provided by Dr Kahotea appears to be an unnamed pa on survey plan from 1865 (SO 132 1865). There are no sites recorded with NZAA or Heritage New Zealand.
14. The Smiths note that, as a working farm, the area has been highly modified in the past. Survey plans show that the area was formerly used as a gravel pit¹, the land is subject to flooding and has been used for intensive farming activities, including cultivation and cropping from time to time, as well as earthworks associated with the farming activities. In addition, Komakorau Stream has been significantly realigned at some point in time (not by the Smiths) as can be seen on the relevant plans. It is therefore unclear, based on the information currently before the Hearing Panel, whether the location of the Pa site is correct and/or whether it remains given the extent of modification that has occurred since 1865.
15. In addition, the Smiths are aware of korero from kaumatua that has suggested the Pa site may actually be closer to the Church/Urupa located on the corner of Gordonton Road and Piako Road. These sentiments are included within a number of documents located on the Council's property file, including a report by CKL relating to an earlier subdivision proposal².
16. The Smiths note that the provisions of the Proposed Plan (if the MAS is imposed over the much wider area as recommended by the Officer's Report) will have consequences to their farming operations, including any earthworks that might be necessary to undertake usual farming activities on site and planting, which would require a restricted discretionary consent. Accordingly, such restrictions should only be imposed where there is robust information available that accurately records the extent of the site, and should not be imposed over an area greater than is necessary to protect any significant sites that might be present on the Smith Property.
17. As noted above, the Smiths support, in principle, the protection of sites of significance where they might be located on the Smith Property. However, the historical map provided by Dr Kahotea (if it is correct), would only apply to an area to the south of the original alignment of Komakorau Stream and does not support the much more extensive area proposed by Council's planner in the s42A Report, which includes a much larger area of the farm and also crosses the dwelling on the neighbouring property.
18. As such, the Smiths seek:
 - (a) That the submission by Ms Henry (to the extent that it may seek the notation of a wider area as proposed by the reporting officer, although that is not clear from the Submission) be rejected and the notified version of the Proposed Plan in relation to MAS M49 is confirmed, on the basis that there is insufficient information and/or ground-truthing of the site to justify the extension of M49 as proposed in the Officer's Report; or

¹ Refer Survey Plan SO 15065 (1909)


² Copy attached for your consideration.

- (b) In the alternative, that Rural Zone earthworks rule 22.2.3.2 be amended to clarify that 'ancillary rural earthworks' are permitted activities within a MAS or similar relief; or
- (c) In the alternative, that the proposed extent of MAS M49 is refined to include only that area on the Smith Property which is south of the original alignment of Komakorau Stream, so that it aligns more correctly with the extent of the Pa site shown on SO 132 1867.

19. The Smiths are grateful for the opportunity to provide the above comments to the Hearing Panel. If there are any questions, please feel free to contact the writer.

Yours faithfully

COONEY LEES MORGAN



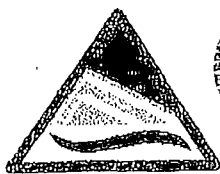
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To: Chris Dawson - Plahner

From: Gary Warner

Part: 07 824 57378

Pages: 8

CC:

Date: 20/10/00 - 27/1/01

Re: Atkins & Others - Gordonton Road

Job No. B1515 - Your 70/00/003

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

Historical Information -- Lot 1 -- DPS 89029 (Lot 5, application plan C1113- S1)

Further to your phone call this morning. We are pleased to provide the following information that we have access to regarding the history of the subject site.

We attach the following information that may be of assistance:

The following documents are labelled A- E and we comment :

A - Copy of part of Survey plan SO 132 (2) showing what may be the site adjacent to the Church site. In our opinion the Komakorau stream is not shown very accurately.

B - An extract from plan DP 3435 (1905) showing the land in the vicinity of the site but with no mention of a pa site.

C - Reduced scale copy of plan SO 15065 (1909) showing the subject land as a Gravel Pit.

D - Reduced scale copy of plan SO 18303 (1925) showing the same site but with no mention of a pa or a gravel pit.

E - Copy of our file note produced following a visit to DOCs archaeological records.

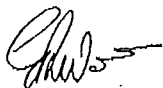
January 26, 2001

F – Reduced scale copy of our drawing B1515 - E1 being a topographic survey of the site showing the present route of the Komakorau stream and the former route of the Komakorau Stream.

We also make the following comments relating to this matter :

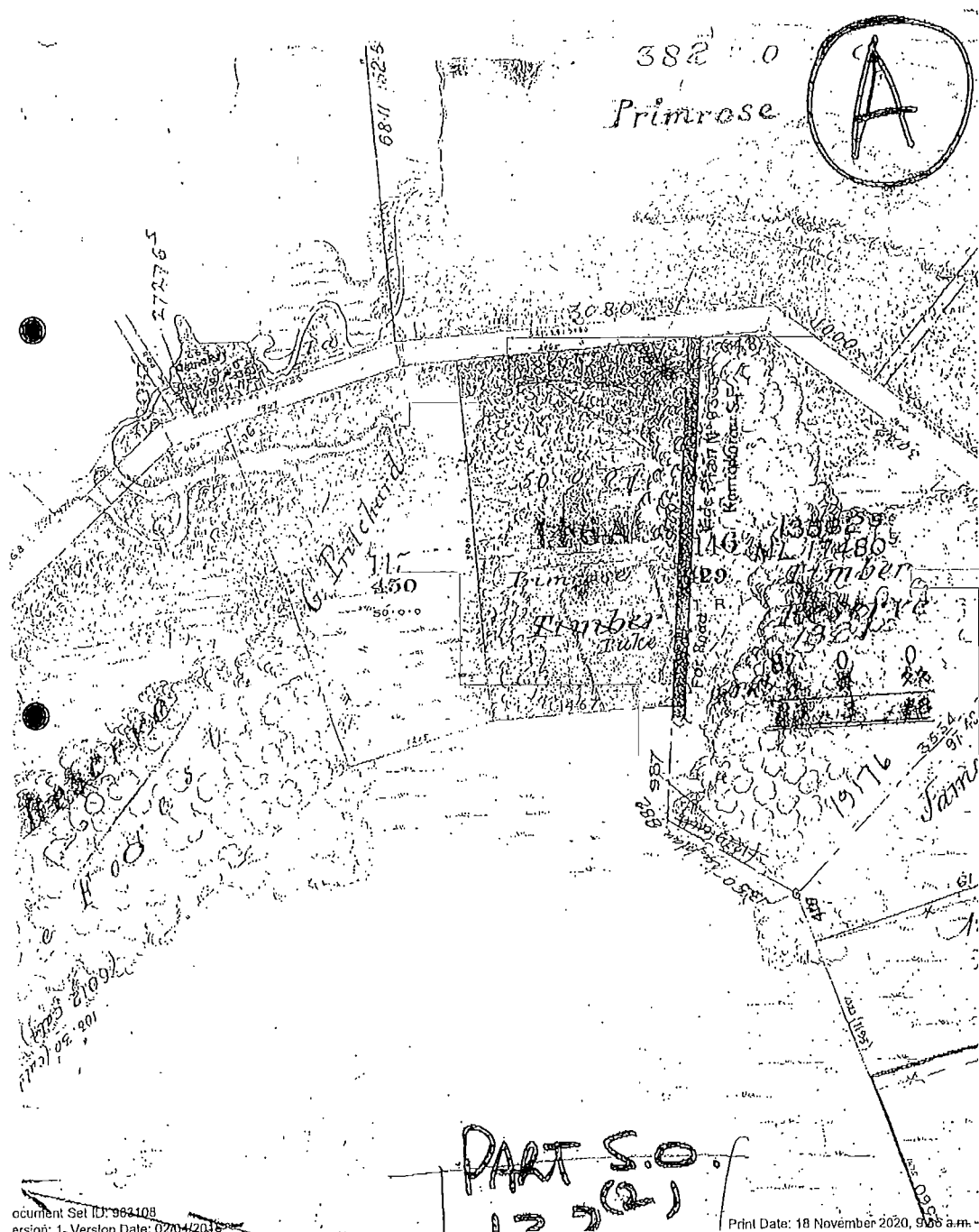
1. Nga Mana toopu have not been prepared to show the land owner or prospective purchaser the evidence that they are basing their assertions on.
2. There is enclosed in this fax evidence to show that if a pa did exist on the site that it has undergone substantial modification over the years and most likely no longer exists.
3. We have heard verbal assertions that the pa may have been closer to where the church/cemetery is now located.
4. We have heard verbal assertions that the pa was vacated because of flooding.
5. The attached exhibit labelled F shows that the stream has under-gone substantial re-routing the earthworks associated with the re-routing may have destroyed any evidence of iwi occupation.
6. There is a large amount of conflicting evidence and verbal comment regarding this site.
7. Given the conflicting evidence and the un-willingness of the iwi consultants to reveal what information they have on the site it would appear to us that it is not reasonable to withhold building consents for the site. The advisory note on the subdivision consent should provide ample protection for any features in the unlikely event that earthworks reveal any such features.

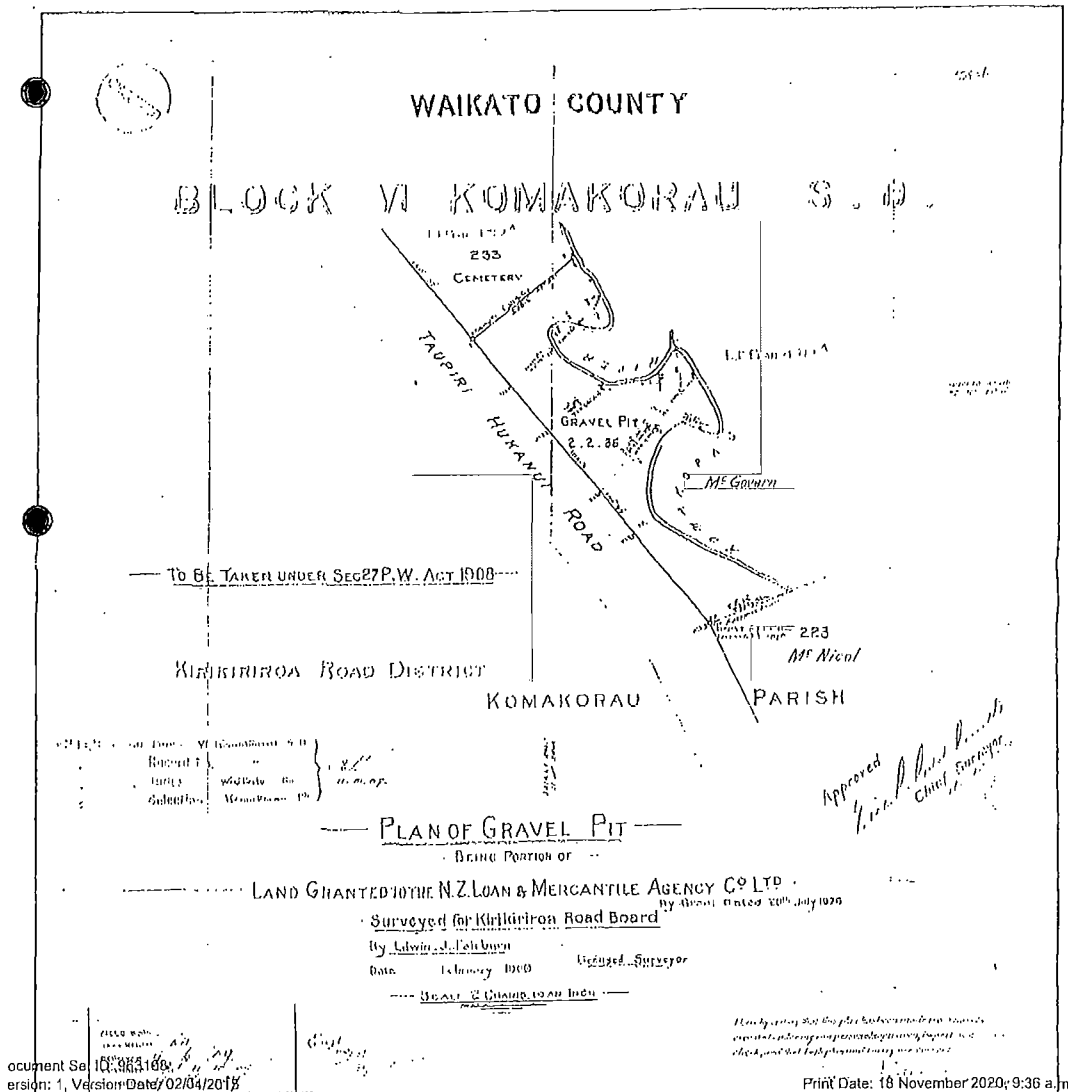
Please call if you have any queries.



Gary Warner

CKL Surveys Ltd







File Note:

25 January 2001

LW and VM Atkins, Gordonton Road

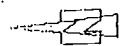
Our Ref: B1515

A visit was made to the Department of Conservation Waikato Conservancy Office where records of the Archaeological Association are held, maintained and updated.

There are no Association records to show that a pa site ever existed on the proposed lot.

However, file notes have overtime been kept on the site but are they are not official Association records but that of the then Waikato Conservancy employee. The file contains a recording of a discussion with Wiremu Puke that took place about 15 years ago revealing Wiremu Puke was of the understanding that a pa site existed not on the present site claimed (Atkins property), but on the adjacent Komakorau Parish site. (church site).

81515-21



Cemetery

1/400 REMAINING
(RAM CANAL NO. 7)

Lot 3

Lot 1

Spot Heights

GORDON ROAD

REDUCED
COPY

D.P. 37176

Heights and Contours are in terms of Mobsri Datum

Contours: 0.5m Interval

11

CRS SURVEYS
Land & Engineering Surveyors
Land Development Consultants
Resource Management Consultants
Members of The Consulting Engineers of N.Z.

Atkins
Natural
Cardrona Band/Diablo Band

Drawn	Checked	Scale	Date
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Print Date: 18 November 2020, 9:36 a.m.

Carolyn Wratt

From: Will Gauntlett
Sent: Monday, 7 December 2020 10:33 a.m.
To: DistrictPlan; Sheryl Paekau; 'Carolyn Wratt'
Subject: FW: PROPOSAL DISTRICT PLAN SUBMISSION REGARDING MAORI SITE OF SIGNIFICANCE
Attachments: Attachments.pdf; IMG20201203003314.jpg
Follow Up Flag: Follow up
Flag Status: Flagged

From: Yvonne Bright <Yvonne.Bright@selwynfoundation.org.nz>
Sent: Friday, 4 December 2020 9:50 am
To: Will Gauntlett <will.gauntlett@waidc.govt.nz>
Cc: 'r-dhawkins@hotmail.com' <r-dhawkins@hotmail.com>
Subject: FW: PROPOSAL DISTRICT PLAN SUBMISSION REGARDING MAORI SITE OF SIGNIFICANCE

: PROPOSAL DISTRICT PLAN SUBMISSION REGARDING MAORI SITE OF SIGNIFICANCE

Dear Will,

I oppose the submission of Ruruhia Cila Henry (Submission 812.1) on the Proposed Waikato District Plan. The submission lodged by Mrs Henry is NOT sufficient to place my property at 22 Piako Road or Mr Smith's on notice.

Firstly this submission 812.1 was brought to my attention by my neighbour Mr Smith.

I was totally unaware of this. Waikato District Council failed to write to me as an affected landowner. And still haven't written to me regarding this matter.

I phoned Will Gauntlett 3 times and left messages. Not once did he return my call.

I find this appalling considering the proposed Maaori Site of Significance is on my property including my existing house.

Clause 8 of Schedule 1, Resource Management Act 1991

To: Waikato District Council

Name of person making further submission: Yvonne Bright

*This is a further submission in opposition on the following proposed plan: Proposed Waikato District Plan
I am a person with an interest in the proposal that is greater than the general public has. The grounds are set out further below in this email.*

I oppose the submission of Ruruhia Cila Henry (Submission 812.1). I oppose the whole of the submission. I seek that the whole of the Submission is disallowed. Given the current point in the plan process, I do not seek to be heard in support of my further submission.

The reasons for my opposition are set out below.

In the year 2000 my former husband Don Bright and myself purchased the piece of land on Gordonton Road from Mr Atkins which Mr Atkins was granted subdivision consent for. The land is now owned and farmed by Mr Smith.

After the purchase we had expensive plans drawn up for our dream home. Plans were put into Waikato District Council which were approved.

We put the entrance way in and a fence at our cost.

We applied for building consent.

At this point council informed us we couldn't build as the land was claimed as a Historic site despite having already granted subdivision consent.

So arrangements were made to meet on site on 9th Feb 2001 with Rawiri Bidois from Historic Places Trust, Derek Burns and Wiremu Puke.

I was disgusted and still am at Mr Burns conversation regarding building on this site.

To date 20 years later I note that the piece of land is still NOT registered with the Historic Places Trust.

So as I see it I'm owed many thousands of dollars that we lost due to wrong and deceitful information.

Mr Aitkins then got CKL surveyors in to do a revised subdivision plan and subdivided off 22 Piako Rd for us to purchase. This is now my home. A copy of the Planners Report for this subdivision is attached and states the following:

"A subsequent site meeting...resulted in a modified application creating Stage 4 being lodged with Council on 15 February 2001. Written confirmation of the revised proposal was obtained from Nga Mana Toopu O Kikiriroa and Te Kotuku Whenua consultants by 20 February 2001. The NZHPT confirmed they had no concerns with the subdivision or the earthworks required to construct a house on the new Lot 1."

I have attached a copy of the letter from our meeting on the property on 9th Feb 2001 and letters of support for the subdivision, construction of my house and associated earthworks from Te Kotuku Whenua Consultants (Maree Pene) and Nga Mana Toopu O Kirikiriroa (Wiremu Puke) and the NZ Historic Places Trust.

Before the purchase was finalised. I approached Mrs Henry, the Kaumatua from Hukanui Marae, and the Kaumatua from Huntly.

We all met on site 22 Piako Rd Gordonton. They all walked the land and spent some time there.

Their words were

"You have our absolute blessings. This land is free and yours to build on".

Now 20 years later it's changed?? Why??

Nothing has changed. As I have the same maps from 20 years ago that you have submitted to this application. If Mrs Henrys submission was of any Significance this would of been lodged 20 years ago.

Dr Kahotea at no point has he visited my property.

By what I see for the proposed Maaori Site of Significance M49 he has looked at a map and guessed where he thinks the Pa site should be and his proposed plan physically goes right through my existing home. I oppose the proposed extent of M49 and seek that the proposed extent of M49 be refined to not include my property.

I have approached S.D legal whom are happy to represent me but it will be at your cost.

This letter is to be treated as further submission in opposition to a submission of the Proposed Waikato District Plan.

Regards Yvonne Bright

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Report To and For Consideration By: Mark Buttimore Policy and Customer Services Group Manager

From: Alistair Muirhead – Development Planner

Date: 25 February 2001

Resource Consent Application Number: 70 01 007

Subject: Change conditions of subdivision consent

Applicants: Bright

Application: To undertake three boundary relocations in a third stage and a boundary relocation in a fourth stage of a subdivision application previously approved in October 2000 by inserting additional conditions of consent

Location: Gordonton (State Highway 1B), Piako and Taylor Roads

Zoning: Rural

Policy Area: N/A

Legal Descriptions: Lots 1 to 4 DPS 86878

Certificates of Title: 68C/696, 64C/199 & 59B/400

Area:

Existing	
Lots 1, 2, 3, and 4 DPS 86878	47.4785 ha
Lot 1 DPS 82337	43.1513 ha
Lot 1 DPS 75867	78.1901 ha
Stage 1	
Proposed Rural Lot 1	12 ha
Proposed Rural Lot 2	12 ha
Proposed Rural Lot 3	23.4 ha
Stage 2	
Proposed Boundary Relocated Lot 4	0.25 ha
Proposed Boundary Relocated Lot 5	2.1 ha

Proposed Relocated Lot 2	Boundary	62.1 ha
Proposed Relocated Lot 1	Boundary	11.15 ha
Proposed Relocated Lot 3 + Lot 1 DPS 75867	Boundary	15 ha + 78.19 ha
Stage Three		
Lot 2 amalgamated with Lot 1 DPS 52129 and Lot 1 DPS 85092		Lot 2 – 17 hec
Lot 3 amalgamated with Lot 1 DPS 75867		Lot 3 – 15 hectares
Lot 1		11.15 hectares
Stage four		
Amalgamate land previously held in Lot 4 with Lot 3		45.3 hectares
Relocate Lot 1 DPS 89029		Lot 1 1.8 hectares

INTRODUCTION

Previously Council consented on 3 October 2000 to applications lodged by CKL Surveys Limited on behalf of Atkins (70 01 003) and Walker, Sullivan & Hillview Farms (70 01 007), to create three Rural Lots in a first stage and undertake five boundary relocations in a second stage. The two original applications were submitted as two separate proposals. Subsequent to a meeting between the Consent Manager and the Consultant Surveyor, the two separate applications were combined in a single proposal.

Stage 1 was subject to section 223 and 224 (c) clearances by 31 January 2001.

Stage 2 failed to occur. The applicant has requested an amended application relating to area and lot size. Previously Lot was to contain area of 62 hectares and it has now been partially retained in Stage 1 – Lot 2 and a smaller area, being 17 hectares is now included in Stage 3. The land area contained in Lots 1 and 3 is unchanged. The amalgamations with abutting titles are unchanged. A fresh amalgamation condition has been accepted by the DLR. Conditions 31 to 37 have been inserted to support Stage 3.

Stage 4 consisting of a further boundary relocation of Lot 4 from Stage 2 being relocated from the Gordonton Road frontage to Piako Road frontage created the necessity for conditions 38 to 45. Between 30 October 2000 and 15 February 2001 it became clear that the cultural significance of Lot 4 was highlighted by representatives from Nga Mana Toopu O Kikiriroa advising Council and the New Zealand Historic Places Trust that a pa/urapa site located within Lot 4 should be undisturbed. The protection of the site was pursued by Nga Mana Toopu O Kikiriroa seeking registration of Lot 5, under the provisions of the Historic Places Act 1993.

Nga Mana Toopu O Kikiriroa had previously advised Council that they had no concerns with the original application. However on 30 October 2000 they advised Council the site was an old pa site and no works should be permitted. Both parties contacted the NZHPT on 30 October 2000. 13 December 2000 enabled Nga Mana Toopu O Kikiriroa representatives and Council staff to meet

and outline the issues surrounding this application. Staff confirmed the appropriate mechanism was to deal with the issue via the HPT Act 1993 under which an authorisation to modify or destroy the feature would be required before any building work could occur on the site.

A subsequent site meeting on 8 February 2001 resulted in a modified application creating Stage 4 being lodged with Council on 15 February 2001. Written confirmation of the revised proposal was obtained from Nga Mana Toopu O Kikiriroa and Te Kotuku Whenua consultants by 20 February 2001. The NZHPT confirmed they had no concerns with the subdivision or the earthworks required to construct a house on the new Lot 1. Environment Waikato will be advised of the amended application with regard to the effect on the amended drainage easement and obtaining access to the realigned drain. Part of the drain lies in land contained within the Gordonton cemetery and as such complete access to the drain is not possible from the new Lot 1.

The location of the proposed dwelling and shed/ancillary unit on new Lot 1 encroaches into the 12 metre side yard under the provisions of the District Plan and the 25 metre side and rear yard setback under Plan Change 7. The lot abutting Lot 1 has an area of land, which exceeds 1.3 hectares, and as such the setback distance is 25 metres from the east and south boundaries of Lot 1.. The dwelling encroaches into the side yard with a minimum setback distance of 6 metres and the shed with a minimum setback distance of 16 metres from the south rear boundary. Screen planting has been requested where the dwelling encroaches into the side boundary. A condition relating to protection of koiwi tangata and archaeological remains has been included in both consents.

The applicant has obtained the written approval of the current landowner of Lots 3 and 4.

Stage 1 contained conditions relating to Lot 4 connecting to the Southern Districts water supply, which runs along Gordonton Road. The revised location for the new boundary relocated lifestyle lot results in the site not having direct access to the existing water supply network. The previously paid capital contribution and connection cost is to be transferred to the new lot. The negotiations with Council and the applicant over connecting the site to the Southern Districts Water Supply have occurred outside the subdivision as to provide a water connection requires an extension to the existing supply network.

Failure to supply water will result in the capital contribution being refunded to the original applicant.

Council staff has advised of the conditions required for Stage 4.

SECTION 127 - RESOURCE MANAGEMENT ACT 1991

Section 127 RMA enables a holder of Resource Consent to apply to the Consent authority for a change of any condition of that consent. In considering an application under section 127 four matters require consideration:

- i. The reasons why the condition was imposed;
- ii. The circumstances in which it were then seen to be appropriate;
- iii. the change in circumstances; and
- iv. whether the change has caused the condition to become inappropriate or unnecessary

The introduction to this report sets out the matters considered by the applicant to justify the changes sought to the implementation of conditions of the subdivision consent 70 01 007.

Section 127 provides two tests regarding notification of applications for changes of consent conditions, these tests in section.127 (3) are not relevant as the original application was processed as a non notified application and the variation sought will have minor effect on adjoining landowners.

RECOMMENDATION

“That pursuant to sections 34(4), 127 and 220 of the Resource Management Act 1991 the Waikato District Council under delegated authority consents to change conditions of consent for subdivision consent 70 01 007 issued on 3 October 2000 inserting conditions 31 to 45, subject to the following conditions:

(Changes are in Italics)

- 1 The Survey Plan to give effect to this Resource Consent shall be generally in accordance with the approved plan by CKL Surveyors Limited plan Reference number B1515: S4 (Stage I) and C1113:S2 (Stage II), copy attached, submitted for applications 70 01 003 and 70 01 007, and received by Council on 22 September 2000, and as amended by conditions of this consent.
- 2 The proposed covenant area ‘A’ shall be deleted prior to the preparation of the Survey Plan.
- 3 All necessary easements shall be granted, reserved and shown on the Survey Plan.

STAGE I

The following conditions relate to Stage I or are matters relevant to the whole subdivision, which shall be implemented prior to a certificate pursuant to section 224(c) of the Resource Management Act being issued for Stage I.

ROADING

- 4 Lot 1 shall be provided with a sealed entrance, located on Gordonton Road at the northern boundary of Lot 1 and constructed in accordance with the Transit New Zealand drawing, Low Use Access Standard, Light Vehicle Crossing, to the satisfaction of Council and in consultation with the Regional Manager, Transit New Zealand, Hamilton.
- 5 The consent holder shall provide written confirmation from Transit New Zealand that all the requirements, specified in Transit New Zealand’s letter reference HL00-002-000 (LW & VM ATKINS) dated 14 August 2000 have been satisfied prior to the issue of the 224(c) certificate.
- 6 The existing dwellinghouse entrance to Lot 1, identified by Rural Address Property Identification number 40, on Piako Road, shall be upgraded to a sealed standard commercial vehicle entrance located as indicated on the approved plan, and constructed in accordance with Waikato District Council plan No. TSG-E2 to the satisfaction of Council.
- 7 The existing dwellinghouse entrance to Lot 2, identified by Rural Address Property Identification number 58, on Piako Road, shall be upgraded to a sealed standard commercial vehicle entrance located as indicated on the approved plan, and constructed in accordance with Waikato District Council plan No. TSG-E2 to the satisfaction of Council.

- 8 The existing dairy entrance 2623 serving Lot 3 shall be upgraded to a sealed standard heavy commercial vehicle entrance located as indicated on the approved plan, and constructed in accordance with Waikato District Council plan No. TSG-E1 to the satisfaction of Council.
- 9 The barberry bushes along the fenceline between the existing dwellinghouse entrance to Lot 2, identified by Rural Address Property Identification number 58, on Piako Road and the existing dairy entrance 2623, serving Lot 3, shall be removed to achieve sight distances of 200 metres, in accordance with District Plan Section 36, Diagram R1 (copy attached), to the satisfaction of Council.
- 10 Two covenants shall be placed on Lot 2, to preserve the sight distance of 200 metres, from the entrances, identified by Rural Address Property Identification numbers 40 and 58, and dairy entrance 2623, in accordance with Diagram R1 (copy attached) of Section 36 of the District Plan.
 - (a) The consent holder shall prepare two diagrams which clearly identify the land required for each covenant area where vegetation and structures located on the land would be required to be trimmed and/or maintained to achieve sight distance of 200 meters, in accordance with Diagram R1 (copy attached), to the satisfaction of Council.
 - (b) The height of any structures or vegetation within the two covenant areas, other than the existing seven-wire post and batten fence, shall be limited to 0.3 meters above the existing ground level, to the satisfaction of Council.
 - (c) Pursuant to section 221 of the Resource Management Act 1991 the existing and future owner(s) of Lot 2 shall be advised of the requirements of condition 10(b) by way of a Consent Notice. The Consent Notice shall be prepared by the Council's Solicitor at the applicant's expense prior to the Council signing the 224(c) certification.
- 11 The surface of the sealed entrances, shall be two coat chip seal, constructed with 180/200 grade bitumen and G3 and G5 chip. The seal shall extend not less than 5 metres from the edge of the existing seal, or to the property boundary if that is more than 5 metres.

UTILITY

- 12 A drainage easement shall abut the northeast boundary of the proposed Lot 1 and shall have a minimum width of 7 metres. This easement shall be vested in the Waikato Regional Council.
- 13 Pursuant to section 108(2)(a) of the Resource Management Act 1991, a capital contribution of \$2,541.00 (Two Thousand Five Hundred and Forty One Dollars) inclusive of GST, shall be paid to Council toward provision of a trickle-feed water supply to Lot 1.
- 14 A separate water supply connection fitted with a manifold and backflow preventer shall be installed to Lot 1, to the satisfaction of Council. Such connection shall be installed by either Council staff or Council approved contractor.
- 15 \$600.00 (Six Hundred Dollars) inclusive of GST, shall be paid to Council for connection to the water supply for Lot 1.

- 16 The minimum residential floor level for any habitable building on Lot 1 shall be 300 millimetres above design flood level. The 100 year flood level has been identified by Waikato Regional Council, as being 24.8 metres above Moturiki Datum.
- 17 Lot 2 shall be provided with an independent potable domestic water supply to the satisfaction of Council.

LEGAL

- 18 Pursuant to section 221 of the Resource Management Act 1991 the existing and future owner(s) of Lot 1 shall be advised of the requirements of condition 16 by way of a Consent Notice. The Consent Notice shall be prepared by the Council's Solicitor at the applicant's expense prior to the Council signing the 224(c) certification.

FINANCIAL CONTRIBUTIONS

Reserve

- 19 Pursuant to section 108 of the Resource Management Act 1991, a reserve contribution of \$1,125.00 (One Thousand One Hundred and Twenty Five Dollars), inclusive of GST, shall be paid to the Council in lieu of vesting land.

Roading

- 20 Pursuant to section 108(2)(a) of the Resource Management Act 1991 a roading fee of \$3,689.00 (Three Thousand Six Hundred and Eighty Nine Dollars), inclusive of GST, shall be paid to the Council. This is based on a Uniform Roding Fee of \$3,689.00 (Three Thousand Six Hundred and Eighty Nine Dollars), inclusive of GST, for each additional lot, which does not contain existing dwellinghouses. Should the roading fee not be paid within 12 months the quantum shall be adjusted annually by the Cost Construction Index.

STAGE II

The following conditions relate to Stage II or are matters relevant to the whole subdivision, which shall be implemented prior to a certificate pursuant to section 224(c) of the Resource Management Act being issued for Stage II.

AMALGAMATION CONDITION

- 21 That Lot 3 hereon shall be transferred to the owner of Lot 1 DPS 75867 (CT 59B/400) and that one Certificate of Title be issued to include both parcels.
See B616868.1

ROADING

- 22 Lot 1 shall be provided with a sealed entrance, located north of its current position to achieve 210 metres of visibility in both directions, and constructed in accordance with the Transit New Zealand drawing, Low Use Access Standard, Heavy Vehicle Crossing, to the satisfaction of Council and in consultation with the Regional Manager, Transit New Zealand, Hamilton.
- 23 The existing entrance to Lot 1 shall be permanently closed to vehicular traffic. The existing entrance shall be permanently fenced and the highway drainage reinstated to the satisfaction

of Council and in consultation with the Regional State Highway Manager, Transit New Zealand, Hamilton.

- 24 The consent holder shall provide written confirmation from Transit New Zealand that all the requirements, specified in Transit New Zealand's letter reference HL00-002-000 (ATKINS, WALKER & HILLVIEW FARMS) dated 14 August 2000 have been satisfied prior to the issue of the 224(c) certificate.
- 25 The existing dairy entrance to the site legally described as Lot 1 DPS 75867, identified by Rural Address Property Identification number 63, on Taylor Road, shall be upgraded to a sealed standard heavy commercial vehicle entrance located and constructed in accordance with Waikato District Council plan No. TSG-E1 to the satisfaction of Council.
- 26 The surface of the sealed entrances, shall be two coat chip seal, constructed with 180/200-grade bitumen and G3 and G5 chip. The seal shall extend not less than 5 metres from the edge of the existing seal, or to the property boundary if that is more than 5 metres.
- 27 Two covenants shall be placed on Lot 2, to preserve the sight distance of 200 metres, from the entrances, identified by Rural Address Property Identification numbers 40 and 58, and dairy entrance 2623, in accordance with Diagram R1 (copy attached) of Section 36 of the District Plan.
 - (a) The consent holder shall prepare two diagrams which clearly identify the land required for each covenant area where vegetation and structures located on the land would be required to be trimmed and/or maintained to achieve sight distance of 200 meters, in accordance with Diagram R1 (copy attached), to the satisfaction of Council.
 - (b) The height of any structures or vegetation within the two covenant areas, other than the existing seven-wire post and batten fence, shall be limited to 0.3 meters above the existing ground level, to the satisfaction of Council.

Pursuant to section 221 of the Resource Management Act 1991 the existing and future owner(s) of Lot 2 shall be advised of the requirements of condition 27(b) by way of a Consent Notice. The Council's solicitor at the applicant's expense prior to the Council signing the 224(c) certification shall prepare the Consent Notice.

UTILITY

- 28 The effluent fields for all dwellinghouses shall be located and if necessary relocated to ensure that each dwellinghouse has an independent effluent disposal system located at least 1.5 metres within the boundaries of their respective Lots. To ensure compliance with this condition a 1:200 plan of the effluent field shall be submitted to Council to the satisfaction of Council.

LEGAL

- 29 The minimum residential floor level for any habitable building on Lot 5 shall be 300 millimetres above design flood level. The 100 year flood level has been identified by Waikato Regional Council, as being 24.8 metres above Moturiki Datum.
- 30 Pursuant to section 221 of the Resource Management Act 1991 the existing and future owner(s) of Lot 5 shall be advised of the requirements of condition 29 by way of a Consent

Notice. The Council's solicitor at the applicant's expense prior to the Council signing the 224(c) certification shall prepare the Consent Notice.

STAGE III

The following conditions relate to Stage III or are matters relevant to the whole subdivision, which shall be implemented prior to a certificate pursuant to section 224(c) of the Resource Management Act being issued for Stage III.

- 31 *The Survey Plan to give effect to this Resource Consent shall be generally in accordance with the approved plan prepared by CKL Surveyors Limited plan Reference number B1515: S3 copy attached, submitted for applications 70 01 007, and received by Council on 22 December 2000, and as amended by conditions of this consent.*

AMALGAMATION CONDITION

- 32 (a) *That Lot 3 hereon shall be transferred to the owner of Lot 1 DPS 75867 (CT 59B/400) and that one Certificate of Title be issued to include both parcels.
See B641931.1*
- (b) *That Lot 2 hereon be transferred to the owner of Lot 1 DPS 52129 & Lot 1 DPS 85092 (CT 67C/87) and that one certificate of Title be issued to include both parcels.
See B641931.1*

ROADING

- 33 *Lot 1 shall be provided with a sealed entrance, located north of its current position to achieve 210 metres of visibility in both directions, and constructed in accordance with the Transit New Zealand drawing, Low Use Access Standard, Heavy Vehicle Crossing, to the satisfaction of Council and in consultation with the Regional Manager, Transit New Zealand, Hamilton.*
- 34 *The existing entrance to Lot 1 shall be permanently closed to vehicular traffic. The existing entrance shall be permanently fenced and the highway drainage reinstated to the satisfaction of Council and in consultation with the Regional State Highway Manager, Transit New Zealand, Hamilton.*
- 35 *The consent holder shall provide written confirmation from Transit New Zealand that all the requirements, specified in Transit New Zealand's letter reference HL00-002-000 (ATKINS, WALKER & HILLVIEW FARMS) dated 14 August 2000 have been satisfied prior to the issue of the 224(c) certificate.*
- 36 *The existing dairy entrance to the site legally described as Lot 1 DPS 75867, identified by Rural Address Property Identification number 63, on Taylor Road, shall be upgraded to a sealed standard heavy commercial vehicle entrance located and constructed in accordance with Waikato District Council plan No. TSG-E1 to the satisfaction of Council.*
- 37 *The surface of the sealed entrances, shall be two coat chip seal, constructed with 180/200 grade bitumen and G3 and G5 chip. The seal shall extend not less than 5 metres from the edge of the existing seal, or to the property boundary if that is more than 5 metres.*

STAGE IV

The following conditions relate to Stage IV or are matters relevant to the whole subdivision, which shall be implemented prior to a certificate pursuant to section 224(c) of the Resource Management Act being issued for Stage IV

- 38 *The Survey Plan to give effect to this Resource Consent shall be generally in accordance with the approved plan by CKL Surveyors Limited plan Reference number B1515: S4, copy attached, submitted for application 70 01 007, and received by Council on 15 February 2001, and as amended by conditions of this consent.*
- 39 *That Lots 3 & 4 hereon shall be held in the same Certificate of Title.
See B646589.1*
- 40 *The minimum residential floor level for any habitable building on Lot 1 shall be 300 millimetres above design flood level. The 100 year flood level has been identified by Waikato Regional Council, as being 24.8 metres above Moturiki Datum.*
- 41 *Pursuant to section 221 of the Resource Management Act 1991 the existing and future owner(s) of Lot 1 shall be advised of the requirements of condition 40 by way of a Consent Notice. The Council's solicitor at the applicant's expense prior to the Council signing the section 224(c) certification shall prepare the Consent Notice.*
- 42 *Lot 1 shall be provided with a sealed standard residential vehicle entrance located 20 metres north east of the existing entrance, as indicated on the approved plan, and constructed in accordance with WDC plan No. TSG-E3, to the satisfaction of Council.*
- 43 *The surface of the sealed entrances shall be two coat chip seal, constructed with 180/200-grade bitumen and G3 and G5 chip. The seal shall extend not less than 5 metres from the edge of the existing seal, or to the property boundary if that is more than 5 metres.*
- 44 *That drainage easements 'C' and 'D' be duly granted and reserved in gross in favour of the Waikato Regional Council and shown on the survey plan.*
- 45 *The consent holder shall ensure that those undertaking earthworks on the subject site are instructed that should any human remains or archaeological items be exposed that activity in that area is to cease immediately and the Police, New Zealand Historic Places Trust and kaumatua representing the local iwi shall be contacted. Work can recommence in the affected area when any necessary statutory authorisations or consents have been obtained.*

Advisory Note:

When Building Consents are applied for the following matters will need to be addressed in any application:

- i. For some building sites a Registered Engineer may be required to confirm that ground conditions are suitable for building.
- ii. For some sites a registered engineer may be required to design a suitable effluent disposal system.
- iii. The cost of providing water supply connections to Lot 1 is additional to capital contributions referred to in Condition 13 of this consent.

- iv. Appropriate Building Consents shall be obtained from Council prior to undertaking any works required in fulfilling the requirements of condition 28.
- v. In order to ensure compliance with condition 28 a plan showing the exact location of the effluent field at a scale of 1:200 should be provided to Council at engineering clearance stage.
- vi Prior to undertaking any physical works on Gordonton Road (Stage Highway 1B) Transit New Zealand require the following Network Consultant to be contacted:

Opus International Consultants
Private Bag 3057
Minolta House
Princess Street
Hamilton

Attn Mr Tony Bonetti
Tel 07 838 9344

- vii The consent holder shall ensure that those undertaking earthworks on the subject site are instructed that should any human remains or archaeological items be exposed that activity in that area is to cease immediately and the Police, New Zealand Historic Places Trust and kaumatua representing the local iwi shall be contacted. Work can recommence in the affected area when any necessary statutory authorisations or consents have been obtained.

Land Use Consent

That pursuant to sections 34(4), 105(1)(b) and 108 of the Resource Management Act 1991, the Waikato District Council, under delegated authority, grants land use consent for dwelling house, as a discretionary activity under the Waikato District Plan to encroach 6 metres into the 12 metre side yard and a proposed shed/ancillary unit, as a discretionary activity under Plan Change 7 to encroach 19 metres into the 25 metre side yard and 9 metres into the 25 metre rear yard, on a site legally described as proposed Lot 1, being created from the boundary relocation of Lot 1 DPS 86878 comprised in Certificate of Title 70C/676, and Lot 3 1 DPS 86878 comprised in Certificate of Title 70C/678, South Auckland Land Registry, subject to the following condition:

- 1 The development shall be sited generally in accordance with the plan submitted by the consent holder on 22 February 2001.
- 2 The minimum residential floor level for any habitable building on Lot 1 shall be 300 millimetres above design flood level. The 100 year flood level has been identified by Waikato Regional Council, as being 24.8 metres above Moturiki Datum.
- 3 The maximum height for any building(s) on Lot 1 shall be limited to 7.5 metres.

Advisory Note

Height is defined in section 4 of the District Plan as follows:

“In relation to a building means the vertical distance between actual ground level and the highest part of the building (but excluding aerials) above the point being measured. For the purpose of this definition, “actual ground level” means the level of the ground after completion of all subdivisional earthworks and before commencement of any earthworks for development of the site.”

- 4 The consent holder will provide screening planting, to a minimum width of 1.5 metres from the boundary with Lot 4, along the north east boundary of where the proposed dwelling house encroaches into the twenty five metre side yard. The consent holder shall have completed the screen planting by 1 October 2001. The consent holder shall maintain the screen planting to the satisfaction of Council.
- 5 The consent holder shall ensure that those undertaking earthworks on the subject site are instructed that should any human remains or archaeological items be exposed that activity in that area is to cease immediately and the Police, New Zealand Historic Places Trust and kaumatua representing the local iwi shall be contacted. Work can recommence in the affected area when any necessary statutory authorisations or consents have been obtained.

The reasons for this decision are:

- a) Having regard to section 104(1)(a) of the Act, the actual and potential adverse effects on the environment of granting consent to subdivide will be able to be avoided, remedied, or mitigated by the imposition of the above conditions.
- (b) It is considered that the potential adverse effects on the environment of granting consent would be no more than minor, therefore the application was dealt with under delegated authority without notification.
- (c) The inclusion of Stage 4 was necessitated by the disclosure by local tangata whenua of information not previously disclosed during the earlier consent process that Lot 5 was culturally significant and registration of the site with the New Zealand Historic Places Trust had commenced in late 2000 and the applicant's desire to be able to find a development area on the parent farm which could be developed as a lifestyle lot.



Alistair Muirhead
DEVELOPMENTPLANNER

Approved pursuant to Delegated Authority



Mark Buttimore

27 February 2001

Date

ACTING POLICY AND PLANNING SERVICES GROUP MANAGER

Planner/alistair/subdiv/change/bright70 01 007127

Ki nga rangatira ki nga hapu ki nga tangata katoa, te tino rangatiratanga o o ratou whenua.



TE KOTUKU WHENUA CONSULTANTS

PO Box 14081 - Kirikiriroa / Hamilton

Phone (07) 855 2628 - Fax (07) 855 2628 Mobile (025) 916684
email

CKL Surveys Ltd,
PO Box 171,
Kirikiriroa / Hamilton

Attention: Gary Warner

Tena Koutou

Re: Further information in respect of a Tangata Whenua Assessment of Environmental Effects:
Clause 1(h)(i) Fourth Schedule Resource Management Act 1991
Application by LW & VM Atkins for a subdivision, located at Gordonton & Piako Road,
Gordonton

We would like to confirm our support for the proposed changes as detailed in the fax dated 15 February 2001.

Whilst there is a need to protect natural and historic features, this should however not limit the capabilities of development from happening as there are methods and options that can be remedied and or mitigated that has the potential to enhance the current state of natural and historic features.

Furthermore, we regret the delays caused in progressing their resource consent application and hope that your application can further proceed without any further delays.

Na,

Maree V Pene
Director

19-FEB-2001 10:10 FROM:NGA-MANA-TOOPU-O-KIRI 075434472

TO:10243185

P:1

NGA MANA TOOPU O KIRIKIROA LTD

PO Box 5216 Hamilton

Phone & Fax 07-843-4472 ~ Mobiles: Rawiri Biddle 025-244-2179, Wiremu

Puke 021-1558-157 Derek Burns 021 987 915.

E-mail: namtok@paradise.net.nz

Date February 19 2001

Our Ref 331

To Mr Allister Muirhead
Senior District Planner
Waikato District Council
Private Bag 544
Galileo Street
Ngauruaahia

Re: Mr & Mrs Bright relocation to Piako Road Gordonton.

It is hereby advised as a result of the meeting held on the property of Mr & Mrs Bright Gordonton Road February 9th 2001, the following resolutions were made.

1. It is agreed that Mr & Mrs Bright would relocate to Piako Road due to the locality of Kararimu Paa in Lot 1 as a ancient burial ground and its historical association to the tangata whenua of the Gordonton District the Ngaati Wairere in accordance with the provisions of the Historic Places Trust Act 1993.
2. It is agreed that the Brights can settle on the allotment as indentified in CKL'S revised plan faxed and submitted to this office by Mr Gary Warner on February 15, 2001.
3. It is agreed by the Brights & the senior Kaumatua of Hukarui Marae that the site would be blessed in accordance to ancient rituals given the events of the past 300 years on the property as a token of good will with the new landowner.
4. As part of the conditions of consent when earthworks are carried out, should any human remains or artefacts become evident contact must be established with Mr Wiremu Puke of Nga Mana Toopu O Kirikiriroa.
5. This letter is hereby forwarded to the Historic Places Trust and the Waikato District Council as evidence of the above condirions.

We hereby declare that we have no concerns with the applicants being Mr & Mrs Bright relocating to Piako Road in agreement with Mr & Mrs Atkins and Nga Mana Toopu O Kirikiriroa.

Kiaora



Wiremu Puke
Ethnographic Researcher
Nga Mana Toopu O Kirikiriroa

NZ HISTORIC PLACES TRUST ❖ POUHERE TAONGA NORTHERN REGIONAL OFFICE

TO: Alister Muirhead, Waikato District Council FAX: 07 824 8091

FROM: Antoine Coffin DATE: 21 February, 2001

Heritage adviser

CC: PAGE 1 OF 1

SUBJECT: Subdivision - Corner Gordonton & Paiko Roads

The information contained in this facsimile message is intended only for the addressee named above. If you are not the intended recipient, note that any disclosure, photocopying, distribution or use of this message is prohibited. If you have received this document in error please immediately notify us by telephone (call collect to the person and number above) and destroy the original message. Thank you.

MESSAGE:

Further to our meeting held on site at Gordonton Road on 9 February, 2001, the NZ Historic Places Trust confirms its support for the construction of a dwelling and associated earthworks with appropriate conditions on the land described as Lot 1 DPS 86878, corner of Piako and Gordonton Roads.

The Trust supports the inclusion of a standard condition relating to the provisions of the Historic Places Act 1993. I have included a standard provision below that we use.

If any archaeological remains, kōiwi tangata (human remains) and/or sites of interest to Māori are identified during construction, no further modification of those remains or sites shall occur until tangata whenua (as appropriate) and the Historic Places Trust have been notified, and an appropriate response advised. Any taonga or recognised Māori material culture remains encountered shall be cared for and retained in law if appropriate with tangata whenua, and in accordance with accepted conservation practice.



Antoine Coffin
Heritage adviser

Antoine Coffin - Heritage Advisor
Northern Regional Office P O Box 105 291 Auckland 1030
Premier Building 2 Durham Street East, Auckland
Telephone (64 9) 307 5923 or (64 9) 307 8896 Facsimile (64 9) 303 4428

THE RESOURCE MANAGEMENT REGULATIONS 2003

Form 6

Further Submission in opposition to a submission on notified proposed District Plan Review

TO, The Waikato District Council

Name of Person making the submission:

Dr Bryan Bang, on Behalf of the Waikato Diocesan Trust Board

I am: the Acting Property Manage for the Anglican Diocesan Trust Board

I Oppose the submission of **Rurahia Cila Henry (812.1)** relating to the land in CT650/300 being Allotment 277, Parish of Komakorau SO 27276.

The Particular parts of the submission I oppose are: the submission as it relates to the property known as St Mary's Church, Gordonton.

The reasons for my opposition are: That the land owned by the Waikato Diocesan Trust Board is apparently not wahi tapu according to elders at the local Marae, and, in any case, is in part, a dedicated cemetery.

I seek to have that part of the submission of the submission relating to St Mary's Church **disallowed**; or in the alternative, if the Council decides to allow the submission then I submit that if the definition of "earthworks" could be construed to include the digging of graves, then this activity be exempted on the basis that the requirement for a resource consent would mean in practise that no funerals could take place because of the time involved in obtaining such consent.

I wish to be heard in support of this submission.

If others make a similar submission I would be prepared to present a joint case with them.

Person making the submission

(Dr) Bryan Bang

November 4th 2020

bryanbang@xtra.co.nz

Phone: 07 8541282

6 Harrowfield Drive
HAMILTON 3210



Darcel Rickard

Chair – Te Kopua 2B3 Incorporation
86 Riria Kereopa Memorial Drive
Raglan, 3297
Date: 4th March 2021

The Hearing Panel C/O Will Gauntlett
Waikato District Council
11 Galileo Street
Ngaruawahia 3720

Tēnā tatou katoa

I write to acknowledge receipt of your letter dated 21 October 2020.

Te Kopua 2B3 Incorporation supports the submission from Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust and is in line with our submission to support the Maaori sites of significance in the proposed District plan as per the corresponding attachment within this email.

If you have any further question, please feel free to contact me.

Nga mihi nui

Darcel Rickard

Chair - Te Kopua 2B3 Incorporation

TO THE HEARINGS PANEL OF THE WAIKATO DISTRICT COUNCIL

IN THE MATTER of Hearing Submissions and
Further Submissions on the
Proposed Waikato District Plan
(Stage 1)

AND

IN THE MATTER of the Proposed Waikato District
Plan – Hearing 20 Maaori Sites
and Areas of Significance

WRITTEN STATEMENT: PERJULI DEVELOPMENTS LIMITED
Hearing 20 Maaori Sites and Areas of Significance
DATED 6th DAY OF November 2020

Introduction

1. This submission is made by Perjuli Developments Limited (Perjuli) in response to the direction issued by the Waikato Proposed District Plan Hearings Panel (dated 28 August 2020) – and is in regard to Hearing 20 Maaori Sites and Areas of Significance (MSOS).
2. Perjuli acknowledges the opportunity to make this submission.

Background

3. Perjuli is the registered owner of the property located at 5851 Great South Road, Ngāruawāhia, and has been identified by the Hearings Panel as an affected landowner in relation to a proposed MSOS policy overlay. The MSOS was not previously indicated within the Notified Proposed Waikato District Plan (PDP).
4. The Panel directions of 28 August 2020 (“**Directions**”) stated at 5(b) that Council should write to relevant landowners (including Perjuli) and:
 - i. *Inform them that a submission on the proposed plan has stated that their land contains a Maori Site or Area of Significance (as the case may be) and have requested that this be identified as such in the Waikato District Plan;*
 - ii. *Provide sufficient detail about the relevant Maori Site or Area of Significance so that the landowner can understand what has been requested, why it has been requested and what consequences it would have for their use of that land;*
 - iii. *Advise the landowner that the Panel wishes to obtain their views before making any decision on whether or not to accept the submission and/or further submission; and*
 - iv. *Invite the landowner to provide a written statement setting out their views.*
5. Council wrote to Perjuli on 19 October 2020 and advised Perjuli that they would need to make a submission on or before 6 November 2020 on the above matters. This submission therefore addresses several issues:
 - a. The first issue, as per para 5(iii) of the Directions, is whether the Panel should accept the late submission from Ngati Tamainupo. Perjuli submits that the Panel should not receive this late submission.
 - b. The second issue is whether the Panel should accept the Council Planner’s recommendation, as per the section 42A Report, that the property at 5851 Great South Road, Ngāruawāhia, be included as a Maaori Site of Significance (MSOS) in the PDP. Perjuli submits that the Panel should not accept this site as a MSOS and has significant concerns about the proposal to this effect in Council’s section 42A report.

Late Submission

6. The position of Council and Ngati Tamainupo appears to be that the late submission should be accepted. It can be assumed that Ngati Tamainupo, as a late submitter, wishes for its submission to be heard. Council’s position on the issue is more curious.
7. The section 42A Report seems to take the view that the late submission should be accepted, referring to it as a ‘further submission’ and not addressing its lateness.
8. In addition, Council’s memorandum of 19 August 2020 does not address issues relating to late submissions, seeming to assume that such a late submission should be accepted.

9. Council's legal submissions suggests at paragraph 3 that Council is under no obligation to advise landowners of submissions affecting their land and suggest that landowners should have become aware themselves (paragraphs 9 – 10).
10. Paragraph 10 expressly states that Council has chosen not to notify landowners.
11. Perjuli submits that if it is case that a late submission of this nature was to be extended, with the result that late submitters would get an extension of time, then Council was required by sections 37 and 37A of the RMA, and particularly section 37A(6), to notify Perjuli as a party 'directly affected' by an extension of time.
12. Perjuli is concerned that Council formed the view that they (and other parties) did not need to be notified, as per paragraph 10 of Council's legal submissions. Perjuli's view is that it should have been notified. As identified below, failing to notify Perjuli has had the important impact of the section 42A report being prepared without any recognition of Perjuli's position or submissions.
13. Notwithstanding that Council apparently believed it was not under any obligation to notify affected landowners, Council seems to have reached the conclusion that landowners should be allowed to be heard, but not present expert or technical evidence (paragraph 16 of Council's legal submissions).
14. Perjuli is concerned that Council's view is that its rights as submitter should be limited, and submits they should not be limited in this way. Perjuli should be entitled to call expert and/or technical evidence, and this evidence should be permitted to address a number of topics as outlined below.
15. Perjuli is also concerned that Council seems to believe its communications with landowners have been satisfactory, as per paragraphs 19-24 of the legal submission. Council seems to believe that status as a further submitter was sufficient, as per paragraph 28 of the legal submissions. Perjuli is concerned that it has taken significant efforts to get to the point of being heard on this matter, and that Council does not seem inclined to support landowners being heard, despite Perjuli's land being adversely affected by these proposals. In addition, at no point has Council properly addressed its willingness to hear late submissions.
16. Perjuli acknowledges that the Hearings Panel has a discretion to hear late submissions, but is concerned that it has not become aware of the late submission directly affecting its land because of Council taking proactive steps to notify Perjuli, but rather through specific circumstances as follows:
 - a. Perjuli became aware of the MSOS policy overlay submission affecting the property by chance on 6 July 2020 through accessing Council's 'submission layer' on the PDP GIS Mapping software (updated in May 2020).
 - b. Upon raising the perceived 'ambushing' effect of Submission 962.1 with Council, Perjuli was advised that as Perjuli did not provide a further submission in opposition to the submission there was no ability to be formally involved in the Hearing 20 process (email dated 9 July 2020 from Carolyn Wratt).
 - c. As the MSOS overlay was not indicated in the Notified PDP, Perjuli was not

actively monitoring the property in respect of submissions – and consequently a further submission in opposition to Submission 962.1 was not lodged.

- d. This reflects that Council did not take proactive steps to advise Perjuli of Submission 962.1, nor its lateness, but rather that Council seems to have taken the view that there was no obligation for Council to communicate with Perjuli on this matter.
 - e. Upon becoming aware of the effect the submission could have on its property, Perjuli obtained a copy of Submission 962 through Council's online submission database and notes that the submission's stamped date of receipt was 19 October 2018 – this being ten (10) days after submissions closed.
 - f. As noted above, in accepting a late submission (that is, in allowing an extension of the submission timeframe) Council was obliged to serve notice to any person directly affected by the time extension under sections 37 and 37A of the RMA (especially section 37A(6)). The late submission was not directly notified to the landowner, and as noted above, Council has not addressed its lateness, simply accepting it.
17. Perjuli wishes to advise the hearing Panel that whilst Perjuli did not provide a further submission under Schedule 1 of the RMA opposing Submission Point 961.1, if Council had directly notified the landowner at the time of receiving the late submission in accordance with section 37A(6) then a more comprehensive further submission opposing Submission 962.1 would have been lodged.

The Submission

18. The Ngati Tamainupo submission, which was lodged late and is date stamped 19 October 2018, states that Ngati Tamainupo seeks the preservation of some of the borrow pits on this and other sites
19. This can be interpreted as meaning that Ngati Tamainupo acknowledges there may be other borrow pits in the area. For reasons outlined below, Perjuli wishes to highlight this point, as it suggests that Perjuli's property is being singled out from others, and that a broader strategic assessment of all borrow pits in the area, as proposed by Dr Kahotea in his report, is necessary before MSOS status is confirmed at this property.
20. It is also important to note that the submission refers to protection of 'some' of the borrow pits. That is not a reference and cannot be read to mean that *all* borrow pits should be protected, though that seems to be the interpretation taken in the section 42A report. Further comments on the section 42A report are made below.
21. The Ngaati Tamainupo submission is light on specific relief, and it seems this has only been fleshed out in the section 42A report and subsequent hearing presentations on which Perjuli has only now had a proper opportunity to submit.

Concerns at Conflict of Interest and Section 42A Report

22. As noted above, a particular concern of Perjuli is that Council seems to have taken the view that Perjuli did not need to be notified of the further (and late) submission, nor that Perjuli

necessarily had a right to be heard. Perjuli has concerns that this indicates a bias on the part of Council against Perjuli.

23. Perjuli also has concerns about the section 42A report and submits this is a partial and biased document that should be disregarded by the Hearings Panel.
24. The Council planner who wrote the section 42A report notes at paragraph 9 (page 7) that she has *hapuu connections to Ngaati Tamainupo* – the submitter with an interest in Perjuli's land. This reflects a conflict of interest in respect of that submission.
25. This connection appears to lead the Council planner who wrote the section 42A report into a quasi-advocacy role. To provide some examples of these concerns
 - a. It is stated at para 15 that MSOS identification is primarily concerned with 'historical significance'.
 - b. It is stated that the scheduling of a site as a MSOS 'does not afford access to private property'. However, information attached to the Submission and available on Council's website refers to the Ngati Tamaingupo protest, which involves hapuu members accessing private property (albeit in an unlawful manner).
 - c. It is stated that the writer disagrees with Heritage NZ's assessment that MSOS should be ground tested, and that the appropriate time to identify how to address a site of significance is at the time of earthworks being required (para 44). This ignores that a site such as Perjuli's is already zoned residential, and would have an impact on the development of its land.
 - d. It is stated at para 46 that identifying paa sites is insufficient, as this marginalises the space that a hapuu occupies. This implies an expansive view of MSOS, of 'vast gardens' and 'activities of village life'. As will be shown below, this approach could have an impact on development throughout Ngāruawāhia.
 - e. It is stated at paragraph 90 that the borrow pits are '*deemed MSOS and of high cultural value to Ngaati Tamaingupo and Ngāruawāhia history*' (emphasis added). This seems to be an acceptance of the Submission, rather than any analysis of it. Perjuli's view is that it is not for the section 42A writer to decide what is and is not a MSOS.
 - f. The section 42A report notes that the evidence of Dr Kahotea recommends that there be a comprehensive review of the remaining Waikato Horticultural Complex (paragraph 92).
 - g. However, the writer goes far beyond this to recommend that remaining borrow pits be added to planning maps as a MSOS (paragraph 93). It is worth noting that this recommendation is not based on the evidence of Dr Kahotea, nor on any consideration of Perjuli's submissions. Rather, it is simply based on the views of the writer, apparently adopting Ngaati Tamainupo's views.
 - h. The limitations of the section 42A report are also apparent from paragraph 94, which says:
 - I. That the borrow pits on the site: '*are the last evidence of the cultural landscape of Maaori horticultural gardens associated with that Pukeiaahua Paa site*'.
 - II. As will be noted below, this is a flawed position. The section 42A report contains a number of lidar images showing significant clustering of borrow pits on land immediately abutting the Pukeahua Paa site (to the south), as well as an extensive network of remanent borrow pits preserved in perpetuity within the

Ngāruawāhia Golf Course. These clusters are less spatially constrained to the land occupied by the Pa and are easily observable and accessible from the Pa as well as being accessible to the wider public (eg, via Ngāruawāhia Golf Course).

- III. This paragraph 94 also suggests that the borrow pits are or were food pits. They are not: as Dr Kahotea's report notes on page 82, they are concerned with quarries to access alluvial soils and gravels, not food preparation or storage¹.

26. Perjuli does not agree with the comments at paragraph 94 and submits that these are emotive and incorrect.
27. In addition:
- a) Paragraph 136 suggests that all relief that has been sought in relation to MSOS is site-specific. This can be seen to be because MSOS are genuinely only an issue where specific sites are affected, as is the case here.
 - b) The comments at paragraph 140 of the section 42A report, which suggest that MSOS status will reduce costs for landowners, are unsupported and in Perjuli's view unjustifiable, when MSOS status could well affect further development of its site.
 - c) Interestingly, at paragraph 151 the planner acknowledges a different methodology for another site, focused on paa sites, and in favour of Dr Kahotea's methodology (in each case in contrast to the writer's views at paragraph 46 and paragraph 93).
28. Unfortunately, it appears that Council does not wish for Perjuli to present expert or technical evidence to contest the failings of the Submission, the section 42A report, or Council's own submissions. Perjuli is concerned that the section 42A report takes an approach that is more like advocacy than expert evidence, particularly at those points noted above. Perjuli notes the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, especially clause 7.2(b).
29. Perjuli has been unduly prejudiced by the section 42A report taking an advocacy role in favour of one of the submitters, without Perjuli being able to make a submission and without the section 42A report considering Perjuli's position. The comments on Riverglade at paragraph 151 of the section 42A Report highlight that if Perjuli had been able to make a submission that could be considered in the section 42A Report, then the comments in the report may well have been different and more balanced.
30. Perjuli submits that the section 42A report in its current form should be disregarded entirely

Plan Change

31. Perjuli purchased the property following the land being rezoned from Rural to New Residential under Plan Change 17 (PC17): *Ngāruawāhia and Surrounding Villages*.
32. Between 2013 and 2016, PC17 the property progressed through an appropriate RMA Schedule 1 process which involved significant input from the local community and interested parties whereby robust consideration to housing demand, infrastructure

¹ Technical Report Section 42A Hearing Maori Sites of Significance: Dr Des Tatana Kahotea June 2020

upgrading, transportation and cultural effects were subject to section 32 RMA analysis and tested through a full public notification process, where all parties had an ability to be heard.

33. PC17 became operative in 2017, reflecting the public desire to extend the residential zone of Ngāruawāhia to the south, a desire that was given effect to from a robust planning perspective. Council was comfortable with this position.
34. The section 42A report for PC17 records no specific concerns in respect of borrow pits in the area, whether by Ngati Tamainupo or otherwise. It is therefore unclear to Perjuli as to why the subject site, which contains substantially modified borrow pits, has now attracted specific cultural interest from both the 962 submitter and from Council's Planner in the section 42A report.
35. Had these specific cultural significance concerns been expressed under the PC17 process and been reflected in the property's zoning, then Perjuli may not have purchased the property. Since its purchase Perjuli has heavily invested in the property as a component of the greater River Terraces residential development project.
36. Significant prejudice will accrue to Perjuli if the subject site is declared a MSOS as the Council section 42A report writer wishes, as the land will no longer be able to be used for residential development in the same way. This is particularly the case if the MSOS is declared without the overall strategic assessment described in Dr Kahotea's report.
37. It is also pertinent to note that in April 2020, Perjuli was granted a Land Use Consent (LUC0350/20) for residential land use preparatory earthworks within the property at 5851 Great South Road by Council; and furthermore, that this LUC was issued with a consent condition that the appropriate Archaeological Authority was obtained (pursuant under the Heritage New Zealand Pouhere Taonga Act 2014) before any works occurred in relation to registered archaeological sites.
38. This authority was obtained by Perjuli on 25 March 2020 (AUTHORITY NO: 2020/519), highlighting that Heritage New Zealand has no concerns about the historical significance of the borrow pits – and as the section 42A Report notes at paragraph 15, it is the historical significance with which MSOS is concerned.
39. Perjuli submits that the borrow pits should not be considered a MSOS because of this prejudice.

Precedent Effect and Plan Integrity

40. Perjuli submits that the subject borrow pits are heavily modified, damaged, and sit within private land that has only recently been zoned for residential land use, pursuant to a fully publicly notified process. Heritage NZ has assessed that the borrow pits do not have archaeological significance.
41. Further, Perjuli is concerned at Council's position that Perjuli should not necessarily have been notified, and the partiality, inconsistent and *ad hoc* approach taken of the section 42A report prepared by Council's planner.
42. Perjuli submits that to assign MSOS status to these borrow pits would have alarming precedent effects and an impact on the integrity of the entire PDP. These concerns are not just for Perjuli, and not just the development community, but also the broader community

as a whole.

43. To assign MSOS status to the borrow pits based on Submission 962.1 would lack robustness, consistency, and would have concerning precedent effects. As the piece of land has been strategically considered through PC17, a more balanced approach to environmental and urban growth pressures than is contained in the Submission and the section 42A report is necessary. Council has invested in infrastructure and other ingredients that are needed for land to be available for housing, and the planning framework should continue on this basis.

Other Borrow Pits

44. In a physical sense, when viewing the lidar imagery in the section 42A report in regard to the clustering of identified borrow pits, a large number of such features are located in closer proximity to the Pukeahua Paa site (and so are more readily preserved in through the current rural and reserve land zoning). Perjuli submits that there is nothing unique or significant about its site. The comments at paragraph 94 of the section 42A report that this is the last evidence of its kind is incorrect.
45. It is uncertain as to why the modified and disturbed borrow pits that are contained within land that has been recently subject to robust and methodical assessment under PC17 (and more recently subject to an approved LUC for earthworks and subsequent Heritage Authority) are specifically identified by the submitter as holding an elevated cultural significance – and yet similar features located closer to the Pukeahua Paa or otherwise preserved on the Ngāruawāhia Golf Course have not.
46. Perjuli submits that this inconsistency and apparent arbitrariness over MSOS classification is a critical consideration for the Hearings Panel. It highlights the discrepancy between the technical advice for Council to undertake a strategic review of all such cultural/horticultural features across the Waikato District before assigning significance, and the approach of the section 42A report writer in recommending MSOS status be granted to the site. Perjuli submits that for certain sites to be singled out on an *ad hoc* basis without a fuller review or the chance for further technical and expert evidence or submissions affects the integrity of the entire PDP. Council's position, as outlined above, is that Perjuli should not be able to present such technical or expert information.
47. The diagrams below, taken from Council's own reports and evidence, show that the site is far from unique in having borrow pits present (noting that these are modified and damaged borrow pits). Rather, borrow pits are a regular feature of the landscape, and if an expansive view was taken, it may be that most of Ngāruawāhia would be found to have evidence of borrow pits. That highlights that this particular property should not be singled out.



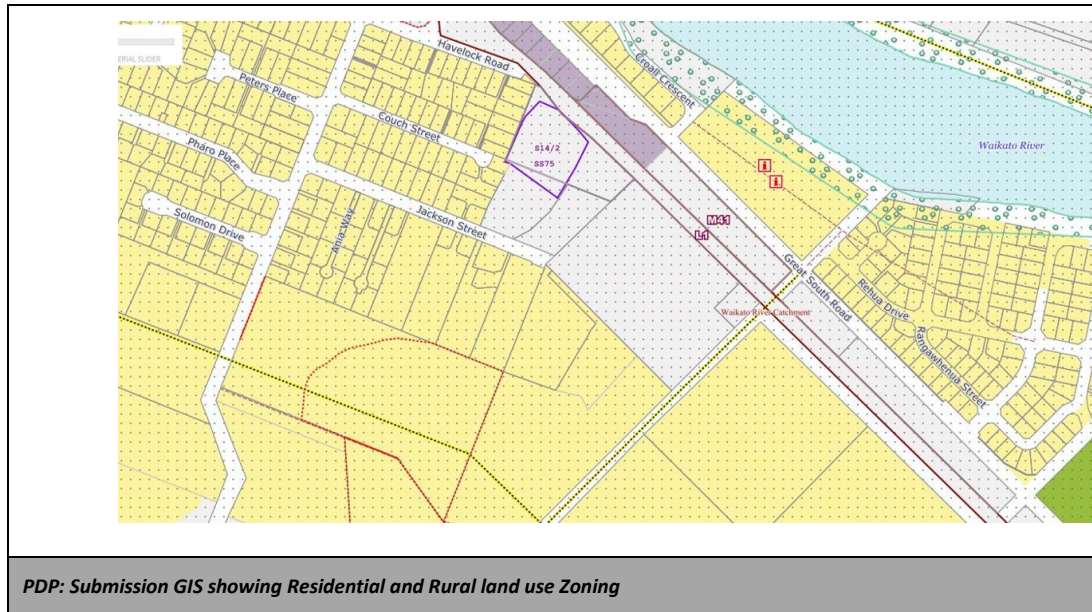
Lidar image of borrow pits surrounding Pukeahua Pa



Image of Rural Land adjacent to Pukeahua Pa (south) containing preserved borrow pit concentration



Example of degraded borrow pit sought to be preserved on 5851 Great Sounth Road



48. Notably, in submission point 962.1 and the subsequent hearing presentation, Ngati Tamainupo sought to define their interest the borrow pits located on Perjuli's property in relation to the proximity of the borrow pits to the culturally significant site of Pukeahua Paa.
49. However, it is unclear to Perjuli as to why other borrow pits, which are not separated from the Paa by a section of NIMT rail corridor and Great South Road, do not garner the same level of attention and the same levels of proposed protection for Ngati Tamainupo. This highlights the inconsistency and arbitrariness of singling out this particular site.
50. It is submitted that when the Panel deliberates on Submission point 962.1 - as well as the emotive hearing presentation by Ngati Tamainupo – the Panel should:
 - a) Apply appropriate weighting to the community expectations under the previous PC17 process (which rezoned 5851 Great South Road to Residential, with the presumption that this would mean further development and subdivision).
 - b) Recognise that seeking to apply MSOS status to this site is essentially arbitrary, and inconsistent with the level of protection (often no protection) given to other sites that do or may hold borrow pits.
 - c) Recognise that other sites are more appropriate to be assigned a higher level of cultural interest.
 - d) Acknowledge that assigning MSOS status to the site will impede development on the site and thereby undermine the integrity of the plan in respect of development and subdivision, at a time when there is a recognised shortage of housing.
51. Perjuli is concerned that any determination to restrict housing development on a site that is already zoned, publicly mandated, and required to meet local housing needs through an *ad hoc* and inconsistent cultural significance restriction will set an undesirable precedent to development projects across the wider Waikato District.

52. The suggestion by Dr Kahotea that Council should undertake an appropriately weighted and strategic management plan for all potential sites is a more reasonable mechanism than applying the cultural MSOS policy overlay.
53. The inconsistent approach to MSOS put forward under Submission point 962.1, and as accepted by the Council Planner, is not supported by Perjuli. It is arbitrary, may have concerning precedent effects, and will undermine the integrity both of existing planning frameworks and the PDP.
54. As Council's letter of 19 October 2020 notes, acceptance of the recommendations of the Council planner will mean that any earthworks will require a resource consent, and subdivision is likely to be inhibited (in order to avoid the MSOS being spread across multiple sites).
55. This highlights that a MSOS in relation to this site will frustrate its existing residential zoning and impede the ability to develop the property. In writing the section 42A report, Council's Planner appears not to regard this as a concern – see e.g. the comments at paragraph 141 - but Perjuli believes it is. Effectively the process of PC17 will be nullified, and Perjuli will be prejudiced by being unable to effectively develop a site it has purchased for development, based on PC17.
56. The s 42A report notes that there has been no general opposition to the s 32 report on MSOS, with only site-specific relief sought. Now that the direct contradiction between the developability of sites zoned residential and MSOS is understood, based on Council's position, general opposition might arise. The serious impediment to development again counters the s 42A report – a strategic assessment of MSOS would be preferable to simply placing this site as an MSOS as the s 42A report desires. This again highlights the limitations and partiality of the section 42A report.

Cultural Effects Mitigation

57. Perjuli has an established and legitimate presence in the area, not only in relation to ownership of the land at 5851 Great South Road, but also through the provision of needed housing supply associated with the River Terraces development immediately abutting the south of the subject property. The overall area is the subject of a quality housing development that is more affordable than many others in the region.
58. Perjuli has experienced a well-established relationship with mana whenua which is evidenced through Turangawaewae Board of Trustees supportive communications and their Cultural Impact Assessment. It is also relevant to note that cooperative communications and development understanding is evident through formal and informal communications with the author of Sub 962 (Kimai Huirama), and Mai Uenuku ki te Whenua Marae.
59. Given the long and established understanding between Perjuli and mana whenua, appropriate cultural acknowledgement and mitigation has been provided throughout the preceding 5 Stages of the River Terraces development. These examples include:
 - a) archaeological and cultural impact assessments;
 - b) ongoing collaborative consultation;
 - c) provision of landscape plantings;
 - d) establishment of appropriate signage;

- e) a commitment to providing pedestrian linkages between Pukeahua Paa and the Waikato River; and
- f) the establishment of rocks/boulders with plaques detailing cultural interests within the development envelope.

60. Perjuli wish for the hearing Panel to be aware that constructive and good faith consultation is enshrined within the River Terraces development to date – and furthermore, that such good faith consultation has been undertaken specifically in relation to the land at 5851 Great South Road.



- 61. It is unfortunate to now hear Perjuli being portrayed as somewhat insensitive to cultural interests as they relate to Ngāti Tamainupo concerns, as this is demonstrably not the case. Perjuli has dedicated a significant amount of time, effort and resources in to listening to and addressing cultural concerns on the site and surrounding areas.
- 62. Emotive comments and statements presented to the hearings panel by Submitter 962 to the effect that Perjuli have refused to meet and consult with Ngāti Tamainupo representatives are out of context, and furthermore are a distraction in determining the level of cultural significance or cultural interest of the property located at 5851 Great South Road.
- 63. Perjuli Developments Limited is a reputable land development firm and has a strong appreciation of the importance of collaboration with all stakeholders. Claims of a lack of consultation, cultural insensitivity, and disingenuous statements regarding timing of development already consented for 5851 Great South Road are irrelevant to the decision being sought under Submission point 962.1.

64. Perjuli seek that the hearings Panel disregard perceived development shortcomings underpinning the submission at the hearing and focus instead on the facts of Perjuli's engagement and track record on cultural mitigation and consultation.
65. Perjuli acknowledges that there are borrow pit remnants located on the property at 5851 Great South Road – however, the degree of interest or significance in these borrow pits has not been proven, and nor has Council's section 42A report taken a robust approach to their assessment. Further, the context of other recorded borrow pits in closer proximity to the Pukeahua Pa and the Ngaruawahia Golf Course is of interest, as these have not received the same level of consideration under Submission point 962.1.
66. It is reiterated that as this piece of land has been strategically considered through PC17 and the consented environment that a more balanced approach to environmental (including cultural significance) and Ngāruawāhia's urban growth pressures has been provided for.

Conclusion

67. Perjuli oppose submission 962.1 in its entirety as it relates to the highly modified and remnant borrow pits located at 5851 Great South Road, Ngāruawāhia.
68. Perjuli accepts that borrow pits in the area may be of historic and/or cultural interest to mana whenua. Some borrow pits are present on the property. However, there are also many borrow pits in areas nearby that are not part of the property. Further, the selective delineation of these features being significant under the MSOS policy overlay is arbitrary, ad hoc and inappropriate when considering the wider physical and planning environment.
69. Perjuli appreciates the ability to share their views of Submission 962.1 to the hearings panel, as well as to highlight its concerns over the assessment process underpinning the s42A report's recommendation to accept the submission. Perjuli reiterates its concerns that Council has seemed reluctant to allow Perjuli to submit on a significant matter affecting its property.
70. Perjuli seeks that the Hearings Panel decide not to accept Submission point 962.1 due to a number of process inconsistencies, undermining public expectations under PC17, potential precedent effects, and on the basis of Council's own technical recommendation to undertake a more strategic approach to the weighted preservation of the District's significant network of borrow pits.
71. Perjuli welcome the opportunity to elaborate on the matters presented in this written statement directly with Council and or the appropriate representative(s) of the PDP Hearings Panel, and if necessary to present further technical and expert information (including if necessary legal submissions).

Perjuli Developments Ltd

Dated the 6th day of November 2020

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

of hearing submissions and
further submissions on the
Proposed Waikato District Plan

SECOND DIRECTIONS FROM HEARING COMMISSIONERS

26 June 2019

Introduction

1. These Second Directions are provided to all submitters on the Proposed Waikato District Plan (“**proposed plan**”) in order that the preparation for the hearing of submissions, and the hearings themselves, are fair to all parties and are conducted efficiently.
2. Our First Directions of 21 May 2017:
 - a. Requested Council staff to compile a Schedule of late submissions, the dates on which they were received, a brief summary of the relief sought and a recommendation, with reasons, as to whether or not the Hearing Panel should accept each of the later submissions, and to file this by 14 June 2018.
 - b. Invited any submitter who wished to raise any legal or jurisdictional matter that they considered needed to be resolved before the hearings commenced, to file these in writing by 21 June 2019.
3. The purpose of these Second Directions is to address both of these matters.

Late Submissions

4. The period for lodging submissions on the proposed plan ended on 9 October 2018.
5. The Council’s report dated 14 June 2019, identified 25 submissions received after this date, as summarised, in date order, in Table 1 below.

Table 1: Late Submissions Summary

Submitter Name	Submission Number	Date Submission Received
Colleen Earby	555	10 October 2018
Alan Kosoof	556	10 October 2018
Bronwyn Kosoof	557	10 October 2018
KiwiRail Holdings Limited	835	10 October 2018
Kearvell Family Trust	867	10 October 2018
Huib Volker	868	10 October 2018
Patrick Day	760	11 October 2018
Ian & Helen Gavin	865	11 October 2018
Lisa Graham	866	11 October 2018
Angeline Greensill	942	12 October 2018
Linda Young	828	15 October 2018
Whenua Holdings Waikato Limited	829	15 October 2018
Brodict Farms Limited	944	15 October 2018
Raglan Naturally	831	16 October 2018
Kyung Koo Han & Sun Kyuang Kang	961	18 October 2018
Ngati Tamainupo	962	19 October 2018
Stonehill Trustee Limited	971	23 October 2018
Carol & Gordon Corke	968	28 October 2018
Debbie McPherson	969	28 October 2018
Peter Pavich	967	29 October 2018
Margaret O'Brien	970	31 October 2018
Amy & Andrew de Langen	977	29 November 2018
Andrew Wilson	981	23 January 2019
Hynds Pipes Limited	983	5 April 2019
Turangawaewae Trust Board	984	7 May 2019

6. Having evaluated each late submission against the requirements of sections 37 and 37A of the Resource Management Act 2019 (“**RMA**”), Council staff:
 - a. Observed that 21 of the 25 late submissions was received in the days immediately following the closing of the submission period;
 - b. Considered that there was no prejudice to any person directly affected by the late submissions being accepted, as the further submission period had not expired and affected landowners could lodge a further submission; and
 - c. Recommended that each of the late submissions be allowed.

7. We are satisfied that submissions received on or before 31 October 2018 should be accepted, for the reasons outlined by Council staff.
8. We are not prepared, however, to automatically accept the late submissions received after that period, given the timeframes involved.
9. We therefore invite the following submitters to advise us, in writing, of the reasons why their respective submissions were filed so late, and why they consider that it should be accepted:
 - a. Amy & Andrew de Langen;
 - b. Andrew Wilson; and
 - c. Hynds Pipes Limited.
10. Such advice is to be provided **no later than 5pm Friday 5 July 2019**, either by:
 - a. **Email** <mailto:Districtplan@waidc.govt.nz>

or
 - b. **Hard copy**

Either

Mailed to: The District Plan Hearings Administrator
Waikato District Council
Private Bag 544
Ngaruawahia 3742

Attention: Sandra Kelly

or

Delivered to: The District Plan Hearings Administrator
Waikato District Council
15 Galileo Street
Ngaruawahia 3720

Attention: Sandra Kelly
11. In respect of the Turangawaewae Trust Board late submission, Council staff have advised that “Council has no record of receiving [that] submission, although the submitter did attempt to lodge it.”
12. We therefore invite the Turangawaewae Trust Board to advise us, in writing, of the attempt(s) made to lodge their submission and why they consider that it should be accepted. Such advice is to be provided in accordance with the timeframe and process set out in paragraph 10 above.

13. On receipt of the material referred to in paragraphs 9 and 12 above, we will determine whether to accept those late submissions.

Legal / Jurisdictional Issues

14. Two planning consultants raised jurisdiction matters with us (Mr Brian Putt and Mr John Manning) although their clients were not identified. Additionally, counsel for Havelock Village Limited and Tata Valley Limited, and Ambury Properties Limited filed memoranda.

15. We address each of these below.

Mr Putt

16. We understood Mr Putt's concerns to be as follows:
 - a. Our Directions seemed premature given that submitters have not yet been provided with the final form of the Summary of Submissions;
 - b. We should review the evidence timetabling and obligations they seek to impose to make them "user friendly";
 - c. Providing 10 working days following the receipt of the Council's section 42A report for submitters to file evidence is insufficient;
 - d. Because the Council has had since October 2018 to consider and respond to submissions they have an unfair advantage over submitters in the time available for submitters to respond; and
 - e. Additionally, there is no provision made for Council to rebut/respond to evidence from submitters, who do not wish to be ambushed by the Council at the hearing. It would be sensible for any additional evidence to be provided at least 5 working days prior to the hearing.
17. Regarding a) – d) above, we consider that the process we have established is both fair to all parties and efficient and we are not persuaded that any changes are required.
18. Regarding point e) above, our Directions of 21 May 2018 may have been ambiguous in that paragraph 26 only referred to rebuttal evidence from submitters being able to be filed at least 10 working days prior to each hearing. We had intended for the Council to also be subject to that obligation – i.e. that all rebuttal evidence, either from the Council or submitters, is to be filed at least 10 working days prior to the commencement of each hearing. However, we consider that Mr Putt's proposal to stagger the provision of rebuttal evidence (with the Council staff following the submitters) has merit. We therefore direct that:

If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.

Mr Manning

19. Mr Manning raised two concerns, namely:
- a. That although the link to the original submissions on the Council's website was not operational on 7 June 2019, he understood that the summary of submissions sometimes incorrectly identified submitters and the relevant contact person – an example being Tainui Group Holdings Limited; and
 - b. Citing the example of Ms Te Aho's role as a Director of Tainui Group Holdings Limited (and being clear that he was not suggesting anything untoward) the table that showed the Commissioners' "Relationships with Submitter Parties and Actions Proposed" needed to be amended to also refer to all relationships with a submitter, including those with agents or contact persons.
20. Regarding a) above, the Commissioners are not responsible for managing the Council's website and/or release of information as part of the Schedule 1 process under the RMA. However, we understand that the Council is aware of the issues raised by Mr Manning and is addressing them.
21. In respect of b) above, the Commissioners are satisfied that the protocols for disclosing and acting on actual or perceived conflicts is appropriate and that no changes are required. However, although Ms Te Aho's role as a Director of Tainui Group Holdings Limited was cited in the "Register of Interests" table, this was not carried through to the subsequent table setting out the Commissioners' "Relationships with Submitter Parties and Actions Proposed". This was addressed in our First Minute of 13 June 2019, where we stated that Ms Te Aho would "take no part in hearing Tainui Group Holding Limited's submission or deliberations concerning it".

Counsel for Havelock Village Limited (submitter number 862) and TaTa Valley Limited (submitter number 574)

22. Havelock Village Limited is seeking to rezone land adjoining Pokeno township from Rural to Residential, while TaTa Valley Limited is seeking to rezone land southwest of Pokeno from Rural to a bespoke Resort Zone. Counsel were concerned that various submitters were seeking that the proposed plan be withdrawn in its entirety or any hearing of submissions be deferred – the justification cited including the need for updated flood hazard mapping and assessments, implementing the new National Planning Standards and better alignment with other planning studies like the Hamilton to Auckland Spatial Plan.
23. In the event that any submitter raised such matters as a preliminary matter, counsel wished to record their interest in that issue and suggested that a pre-hearing meeting be convened. Counsel recorded that they opposed any withdrawal of the proposed plan or deferral of the hearings and considered that the relevant issues can be addressed as part of the substantive hearings.
24. No party has raised withdrawal of the proposed plan or deferral of the hearings as a preliminary matter in response to our First Directions. Accordingly, while counsel's concerns are noted (as are those in some written submissions) we are satisfied, based on the

information put before us in response to our First Directions, that the substantive hearings can proceed as contemplated.

Counsel for Ambury Properties Limited

25. Ambury Properties Limited is, in general terms, seeking to:
 - a. Rezone Rurally zoned land at Ohinewai to a combination of Industrial, Business and Residential zoning, as specified in a proposed structure plan; and
 - b. Incorporate objectives and policies into the proposed plan to create a framework for the structure plan.
26. Based on their understanding that:
 - a. Stage 1 hearings will commence in September 2019;
 - b. Stage 2 is to be publicly notified in March 2020;
 - c. Hearings on Stage 2 will commence in early 2021;
 - d. Decisions (on the entire plan) will be issued late in 2021; and
 - e. Their submissions will likely be heard as part of the Stage 2 hearings, because of natural hazard considerations;

counsel requested that:

 - a. Its submission be heard in May 2020; and
 - b. A decision on its submission be released by mid 2020.
27. Counsel's memorandum considered whether we had jurisdiction to take the approach they requested, and whether, on the merits, we should adopt that approach. They considered that their proposal was open to us to adopt and that we should adopt it. The reasons cited on the merits were to the effect that delays would put the proposal in jeopardy, given the expiry of existing leases in Auckland, the inability to find a suitable alternative facility in Auckland and because if unsuccessful in its request for a relatively prompt hearing, the economic and social benefits for the Waikato District would be lost.
28. We are mindful of the fact that Ambury Properties' proposal has arisen out of its own submission on the proposed plan, rather than being a part of the notified version. As such, other than as a result of whatever consultation Ambury Properties, or Council staff, may have undertaken, the further submission process will be the first opportunity for interested/affected parties to express their views on the proposal.
29. Absent an understanding the scale/extent of any further submissions, we think it premature to make a decision on hearing timetables on the Ambury Properties' submission. Rather, we consider the appropriate course of action is to convene an urgent pre-hearing meeting as

soon as possible following the closing of further submissions and for all submitters and further submitters and the Council to have the opportunity to participate.

30. If Ambury Properties is not satisfied with what we have set out above, they should lodge a further Memorandum.



P H Mitchell (Chair)

26 June 2019

From: Sheryl Paekau
Sent: Monday, 16 March 2020 4:49 PM
To: Brent Glover
Cc: Craig Blackmore; Kimai Huirama
Subject: RE: Property at 5851 Great South Road, Ngaruawahia - NZAA Borrow Pit Cluster S14/371

Teena Koe Brent

Thank you for your reply. We will respect your refusal of access at this time.

Although the submissions primarily identifies the submitters status within the district and their relationship to the Ngaruawahia Town features of it's name, the Puke-i-aahua Paa site, the Point and the Hakarimata Range. These features give Ngaati Tamainupo the status of Mana whenua in Ngaruawahia through Whakapapa. Turangawaewae Marae is also of high importance to the history of Ngaruawahia.

However my interest as a policy planner in the District Plan Review is that Ngaati Tamainupo' submission has asked to protect some of the significant borrow pits on the section of 5851 Great South Road which are in close proximity to the Puke-i-aahua Pa. Heritage New Zealand is a further submitter (FS 1323.151) in supporting this submission.

The NZAA Borrow Pit Cluster S14/371 on 5851 Great South Road is registered and protected under the Heritage New Zealand Pouhere Taonga Act, however the 'Act' allows you to apply for an 'Authority' that will or may modify or destroy a recorded archaeological site (whether it is recorded or listed or not).

My report to the Hearing commission is due in late May/June, therefore the Archaeologist/Anthropologist Des Tatana Kahotea PhD will provide a technical report accordingly for the Maaori Sites of Significance Hearing.

I understand that the submitter Kimai Huirama is a member of the Mai Uenuku ki te Whenua Marae (Ngaati Tamainupo) and is the Chairperson of the Ngaa Uri o Tamainupo Ki Whaaingaroa Trust.

I will advise you when the reports are due to go on the website and the hearing date.

Ngaa mihi
Sheryl

From: Brent Glover [mailto:brent@glover.co.nz]
Sent: Monday, 16 March 2020 11:36 a.m.
To: Sheryl Paekau
Cc: Craig Blackmore
Subject: FW: Property at 5851 Great South Road, Ngaruawahia - NZAA Borrow Pit Cluster S14/371

Hi Sheryl

Further to my telephone message this morning.

Having now reviewed the information provided relating to the "Proposed" District Plan we question the relevance of our individual site, in isolation, at this time relating to this submission. The submission is of a general nature regarding relationships and representation, Hapu Management plans and request to be recorded as mana whenua pertaining to all sites of significance.

Could you please forward further details pertaining to this and your request. i.e. The process relating to Section 2.2(d), are other site visits currently happening , where is this section of the proposed plan up to , what is the timeline , who has input to this process etc.

We also now note the submission is actually from a different identity to that to which we have been liaising although the contact person (Kimai Huirama) is the same.

For your information we have currently been liaising with both Turangawaewae Trust and the Ngaruawhaia Tu Tangata Trust in relation to our site and have engaged a specialist Archaeologist with a background in historical Maori horticulture in this vicinity. He is currently researching and undertaking physical investigations on site in accordance with Heritage NZ requirements and will provide full reporting and disclosure of all history pertaining to the site. During investigations any findings of significance will be conveyed to parties and if required site visits with representatives may be required.

It would seem appropriate that any site visit or discussions around site significance or history is undertaken at a later date when we have additional and full information post the current investigations so all parties are fully informed. Accordingly we will be **unable** to meet or provide site access this Thursday as per your request.

Please give me a call should you wish to discuss further.

Regards
Brent

Brent Glover
Development Manager
River Terraces Subdivision
Perjuli Developments Ltd
021977657
www.riverterraces.co.nz

From: Sheryl Paekau [<mailto:Sheryl.Paekau@waidc.govt.nz>]
Sent: Friday, 13 March 2020 2:24 PM
To: Brent Glover <brent@glover.co.nz>
Cc: Craig Blackmore <Craig.Blackmore@perry.co.nz>
Subject: RE: Property at 5851 Great South Road, Ngaruawahia - NZAA Borrow Pit Cluster S14/371

Kia ora ano Brent

Thank you for your reply. I have included some attachments for you.

Ngaa mihi
Sheryl

From: Brent Glover [<mailto:brent@glover.co.nz>]
Sent: Friday, 13 March 2020 12:46 p.m.
To: Sheryl Paekau
Cc: Craig Blackmore
Subject: RE: Property at 5851 Great South Road, Ngaruawahia - NZAA Borrow Pit Cluster S14/371

Hi Sheryl

Thanks for your email. Whilst we have been having discussions with Ngaati Tamainupo relating to the proposed subdivision of this site they had not conveyed to us that they had submitted on the proposed plan.

Could you please forward a copy of the submission and any related material so we are fully informed prior to meeting.

I confirm that we will have a representative at the site on Thursday and will have unrestricted access in accordance with our purchase agreement with the current owners.

Regards
Brent

Brent Glover
Development Manager
River Terraces Subdivision
Perjuli Developments Ltd
021977657
www.riverterraces.co.nz

From: Sheryl Paekau [<mailto:Sheryl.Paekau@waidec.govt.nz>]
Sent: Friday, 13 March 2020 10:52 AM
To: Brent Glover <brent@glover.co.nz>; Craig.Blackmore@perry.co.nz
Cc: Kimai Huirama <kimhuirama@gmail.com>; I-Jay Huirama <I-Jay.Huirama@waidec.govt.nz>
Subject: Property at 5851 Great South Road, Ngaruawahia - NZAA Borrow Pit Cluster S14/371

Kia ora Korua

I have cc'd you into an email of Kimai & I-Jay Huirama regarding a District plan submission to the Proposed Plan that Council is currently processing to a hearing later this year. Your email addresses were provided by the submitters who act on behalf of Ngaati Tamainupo. I understand you have had conversations in regard to the Borrow pits.

Council has engaged an Archaeologist /Maaori Anthrologist to access the site and provide a report for the Maaori Sites of Significance Hearing. If you are acting on behalf of the landowners would you be able to meet us at the property at 09.15am on Thursday 19th March or advise that I should contact Mr & Mrs Prendergast. I look forward to your response.

Ngaa mihi
Sheryl

Sheryl PAEKAU
Policy Planner

Waikato District Council
■ P 07 824 8633 ■ F 07 824 8091 ■ Call Free 0800 492 452 ■ DDI 07 824 5623 ■ M 0211090048
Private Bag 544, Ngaruawahia 3742
www.waikatodistrict.govt.nz

<http://www.facebook.com/WaikatoDistrictCouncil>

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WAIKATO PROPOSED PLAN
 MAORI SITES OF SIGNIFICANCE AND AREAS OF SIGNIFICANCE
Technical Assessment
Section 42A Hearing
Maori Sites of Significance (S13/119) & (S13/141)

Submission 340.1

Des Tatana Kahotea February 2021

Date of field assessment: 6/2/2021 - 343 Jefferis Road Waerenga

Access to pa next to residence of property owner Jefferis. Prior contact made to property owner and met at place of residence. The property owners stated they did not need to accompany the consultant on their property.

Introduction

This is a report directed by the Commissioners to respond to property owner submission to Maori Sites of Significance S13/119 and S13/141. An assessment was undertaken by archaeological field survey of the two pa located on the Jefferis property at Waerenga

S13/119 and S13/141 was recorded by Owen Wilkes in 2004 and 2002 for the New Zealand Archaeological Association site recording scheme respectively and took photographs of the two pa from Jefferis Road. S13/119 was identified by a surveyor's field book 1882 and Wilkes assumed the location on a topographical map. S13/141 was identified from observation from the road of the pa ditch and bank.

Field Assessment Outcome

This was a pa recorded by Owen Wilkes in 2004 from a 1882 surveyors field book of the survey of confiscated land at Te Waerenga. S13/141 was first surveyed and when this was completed the author crossed the Whangamarino River to walk along the river on the south side and nearing the foot of the ridge found the curve of the river did not match the survey plan SO613 and surveyor's fieldbook sketch. A drone was used to examine the ridge where Wilkes had recorded S13/119 but there was no evidence of earthworks to indicate the presence of a pa. Examining plans and aerial images in the field plus the drone image it became obvious that the Ruakiwi pa recorded in the surveyors field notebook was S13/141. Wilkes recorded Ruakiwi pa in the wrong location.

Discussion

In 2002/2004 Wilkes used a topo50 map S13 Huntly for identification and location. The course of Whangamarino River on the Jeffrey property had been altered to run along the foot of the ridge hence the mistaken location, he did not have the benefit of readily accessible online aerials and digital survey plans to ascertain location.

Figure 2 is SO613 of the Waerenga Block of Whangamarino Valley shows the Whangamarino River boundary in figure 1 as the boundary for Lot 27, plan produced in 1867 for the Waikato Land Confiscation. Figure 3 is SO3574 1884 Plan of Section 17 Parish of Maramarua, which was produced from the field books 556 pages 98 – 104. Figure 4 is aerial photo 284/49 1942 where the outline of the Whangamarino River is drawn and the defensive features of S13/141 is seen indicated in the figure. Figure 5 is the topo50 S13 Huntly which Wilkes would have used showing the new course of the Whangamarino River where Wilkes assumed Ruakiwi pa was next to the curve of the river seen in the topo50 map.

Final Comment

The pa site S13/119 recorded by Owen Wilkes in 2004 is the pa site S13/141 he recorded in 2002. There is no pa on the ridge where he recorded S13/119.

Changes were made to the file of S13/119 stating by a field visit and examination of maps S13/119 was not a pa, nor was there any archaeological features. This was done through the online NZAA Site Recording Scheme as a registered NZAA member user. The S13/141 pa was also updated online.

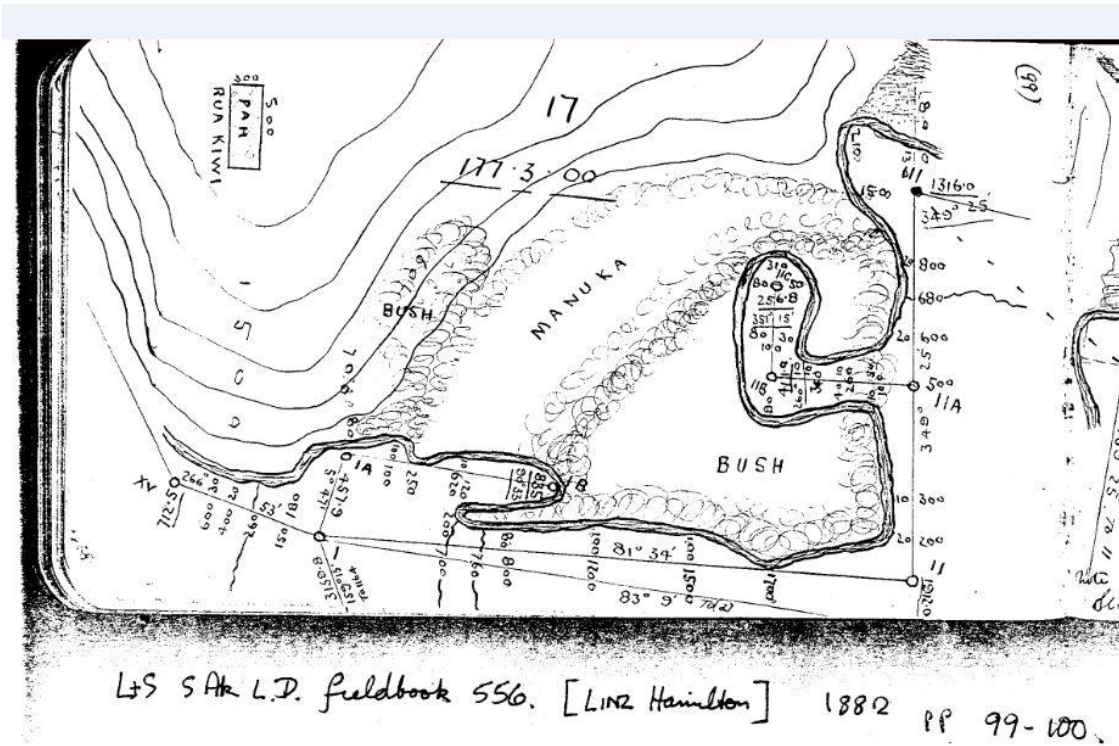


Figure 1 Ruakiwi Pa (S13/141) Sketch of Surveyor's Fieldbook 1882

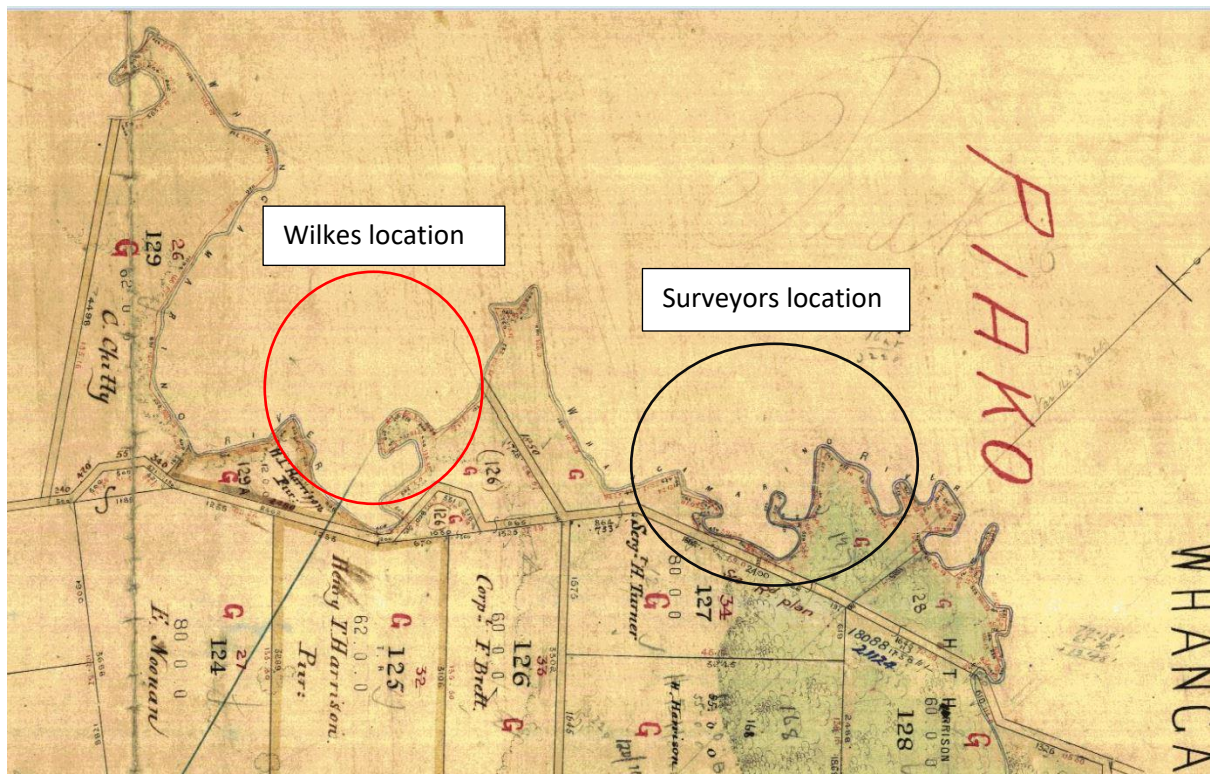


Figure 2 SO613 1867 showing Whangamarino River Boundary of Lot 27

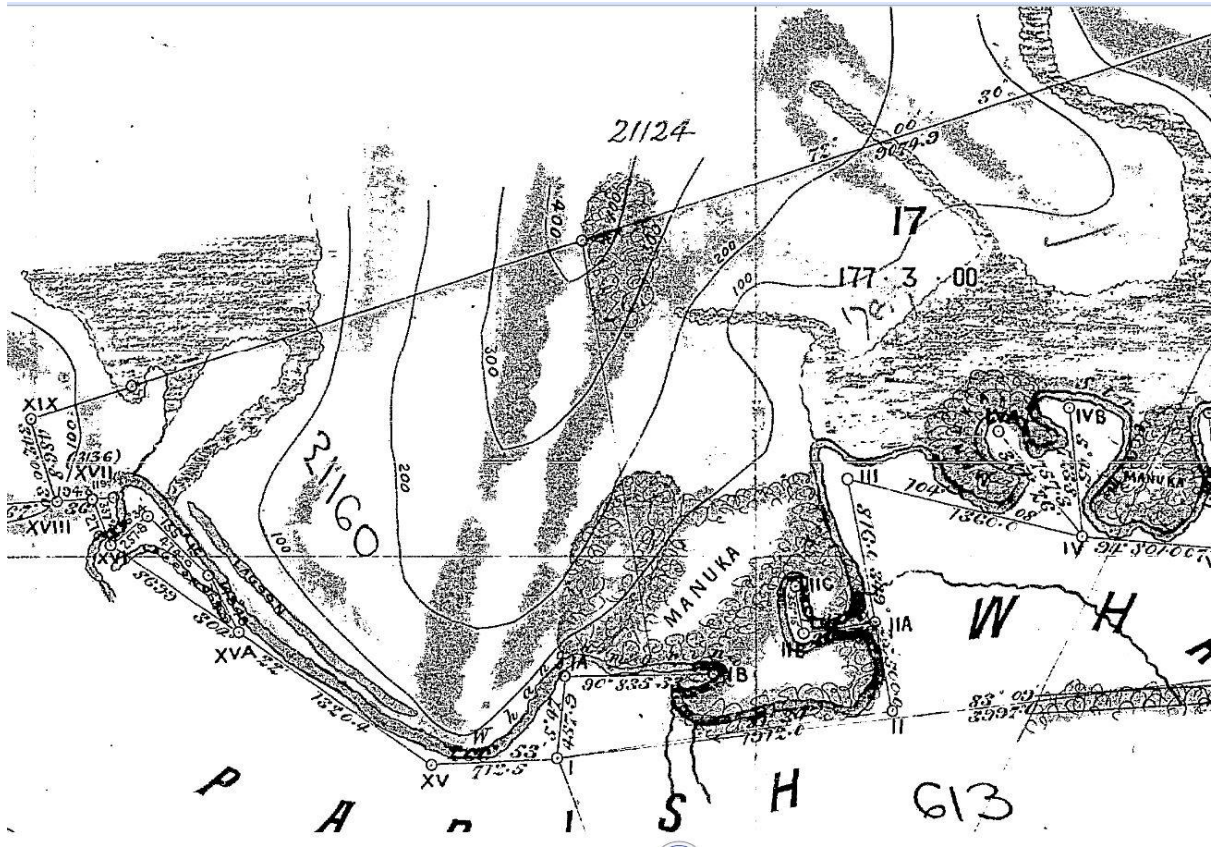
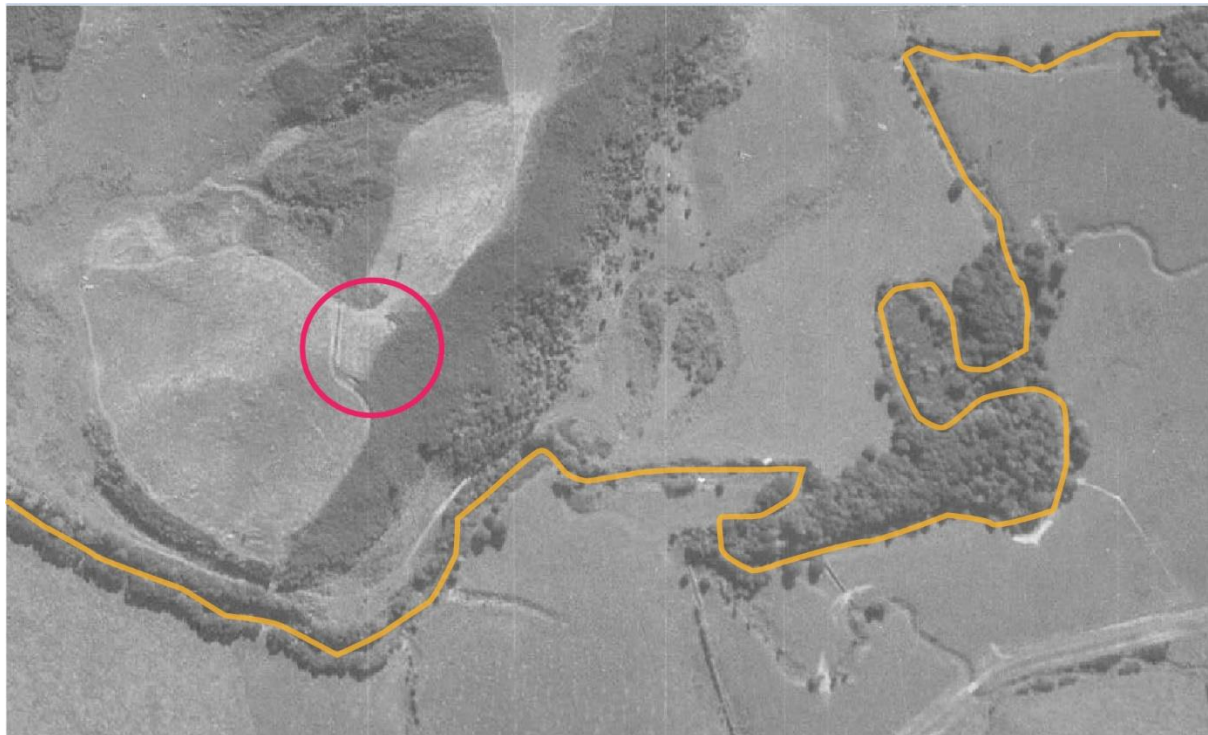


Figure 3 SO3574 1884 Plan of Section 17 Parish of Maramarua



Location of S13/141



Whangamarino River

Figure 4 Outline of Whangamarino River and ditches of S13/141. Aerial photo 284/49 1942

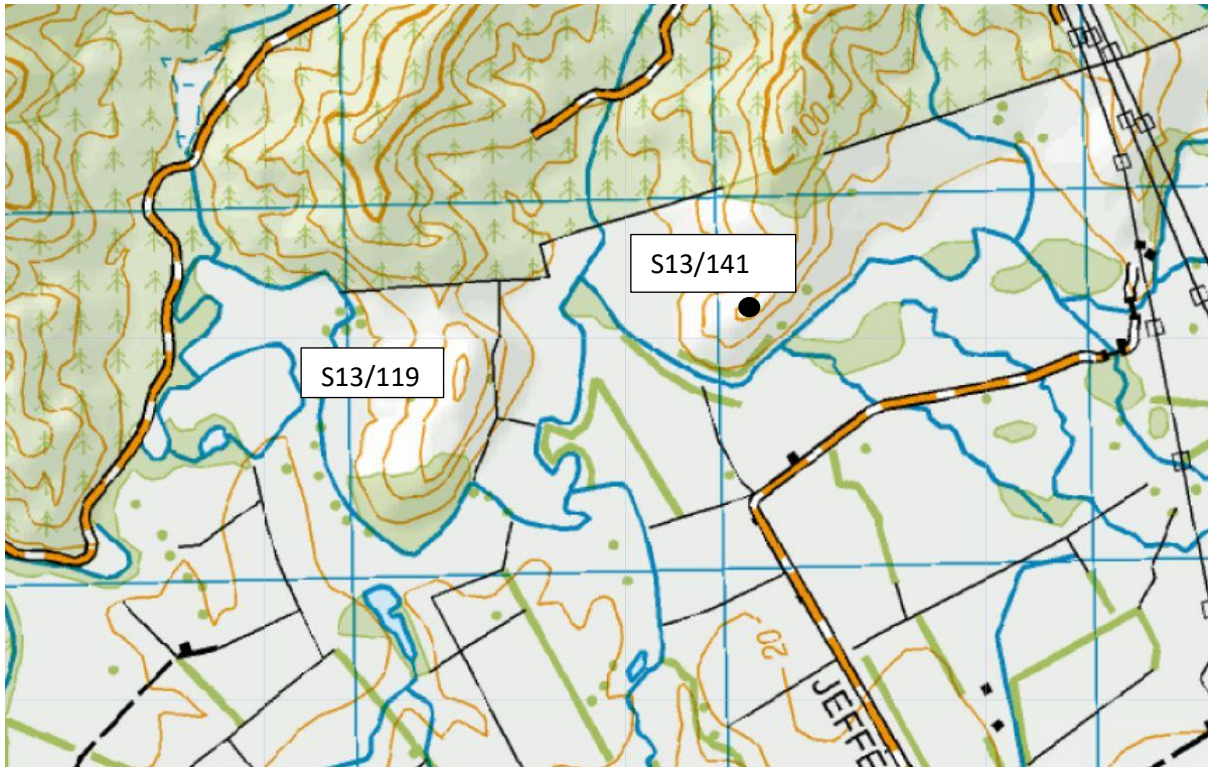


Figure 5 Topo50 showing location of pa and current course of Whangamarino River

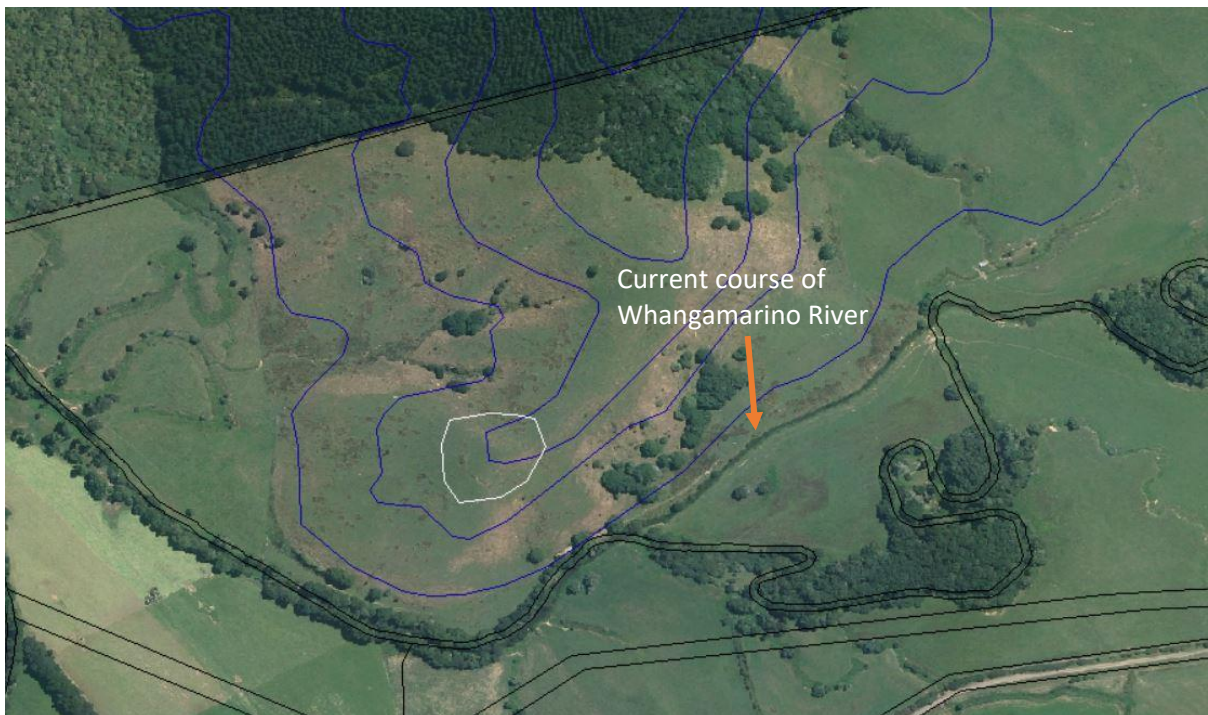


Figure 5 Location of S13/141 and new course of Whangamarino River



Figure 6 Location of S13/141 and ridge for S13/119



Figure 7 View south of S13/141



Figure 8 Aerial of S13/141 ditch and banks



Figure 9 View of ridge from near S13/141

SUBMISSION
on Proposed Waikato District Plan

21 May 2019

To: Waikato District Council

This Submission is from:

Ngā Uri O Tamainupō Ki Whāingaroa Trust
3 Windsor Avenue
Ngaruawahia 3720

Phone: +64 7 824 8202

Email: chair.nuotkw@gmail.com

INTRODUCTION

1. This submission is made on behalf of Ngā Uri O Tamainupō Ki Whāingaroa Trust ("NUOTKW Trust"). NUOTKW Trust is the mandated entity for the hapū of Ngāti Tamainupō.
2. Ngāti Tamainupō is one of the 33 iwi/hapū in the Waikato district who have mana whenua as part of Ngā Iwi o Tainui.
3. Through historical and whakapapa connections, the pouwhenua or traditional tribal boundaries of Ngāti Tamainupō stretches from *Huntly* in the North, southwards to *Ohaupo*; from *Whaingaroa (Raglan)* on the West Coast towards *Kirikiriōroa (Hamilton)* in the East.
4. Ngāti Tamainupō is concerned to ensure that the rights, interests, and responsibilities of our whaanau, marae and hapū are protected.

OVERVIEW OF NGĀTI TAMAINUPŌ

5. Ngāti Tamainupō asserts unreservedly our rangatiratanga over our lands, waterways, ngahere, ngāwhā, wāhi tapu and taonga. As kaitiaki of same, ensuring the protection and sustainability of our waterways and whenua for our future generations ("mokopuna") is imperative.
6. The heritage, history and taonga of Ngāti Tamainupō are our stories ("narrative"). We own and live our narrative, it is our voice and as such, the voice of our mokopuna. The future of Ngāti Tamainupō is thus dependent on our creating cultural, social and economic space to ensure the voice of our mokopuna is heard. To this end, we maintain that only Ngāti Tamainupō can speak for Ngāti Tamainupō.
7. Ngāti Tamainupō has a range of rights and interests including, but not limited to:
 - (a) rights and interests according to tikanga and customary law;
 - (b) rights and interests arising from the common law (including the common law relating to aboriginal title and customary law); and
 - (c) rights and interests under the Treaty of Waitangi (**the Treaty**) and its principles.
8. Ngāti Tamainupō welcomes the opportunity to respond to the Council on this issue.

NGĀTI TAMAINUPŌ POSITION

9. The Treaty of Waitangi was signed by chiefs of iwi and hapū. As a Treaty partner, Ngāti Tamainupō supports a Waikato District Plan which has mana whenua representation included at all levels and gives active expression to Treaty principles through genuine partnerships.

10. Ngāti Tamainupō supports the introduction of a Tangata Whenua section within the proposed Waikato District Plan. However, we believe that the description in Section 2.2(a) needs to provide stronger clarification of the relationship between iwi, hapū and marae, and take into consideration the following comments:
- (a) Te Whakakitenga o Waikato Ltd ("TWOW") is a marae-based iwi authority and represents the interests of 68 marae within the Waikato-Tainui District. Ngāti Tamainupō maintains the right to represent our own interests as a hapū.
 - (b) Ngāti Tamainupō has descendant hapū and marae who do not affiliate to TWOW. These additional hapū and marae still have mana whenua status in their own rights and must be recognized as such by the Waikato District Council.
11. With regards to Section 2.2(d), Ngāti Tamainupō wishes to be recorded as mana whenua pertaining to sites of significance including, but not limited to:
- The Point
 - Hakarimata Range
 - Puke-i-ahua
12. With regards to Section 2.14, Ngāti Tamainupō supports the creation of support mechanisms for the development of Hapū Management Plans.

CONCLUSION

- Ngāti Tamainupō supports that:
 - Mana Whenua representation is established and maintained at all levels of the Waikato District Plan.
 - Genuine partnerships between hapū and Waikato District Council are established and upheld that align with Treaty principles.
 - A section about 'Tangata Whenua' is included within the Waikato District Plan, which clarifies the relationship between iwi, hapū and marae.
 - Recognition of mana whenua status of Ngāti Tamainupō is recorded with regards to cultural sites of significance such as the Point, Hakarimata Range and Puke-i-ahua.
 - Support is given for the development of Hapū Management Plans.
- Ngāti Tamainupō seeks direct and ongoing engagement with the Council regarding the Proposed Waikato District Plan.
- Ngāti Tamainupō wishes to be heard in respect of this submission.

Please contact:

Kimai Huirama

Ngā Uri o Tamainupō Ki Whāingaroa Trust – Chairperson

email: chair.nuotkw@gmail.com mob: 02102647451



RMA Form 5

Proposed Waikato District Plan

Submission form



ECM Project: DPRPh5-03

ECM #

Submission #

Customer # 29899.3

Property # 70641

To submit electronically please go to: www.waikatodistrict.govt.nz/pdp

Closing date for submissions: 5pm on Tuesday 9 October 2018

Submitter details: (please note that the (*) are required fields and must be completed)

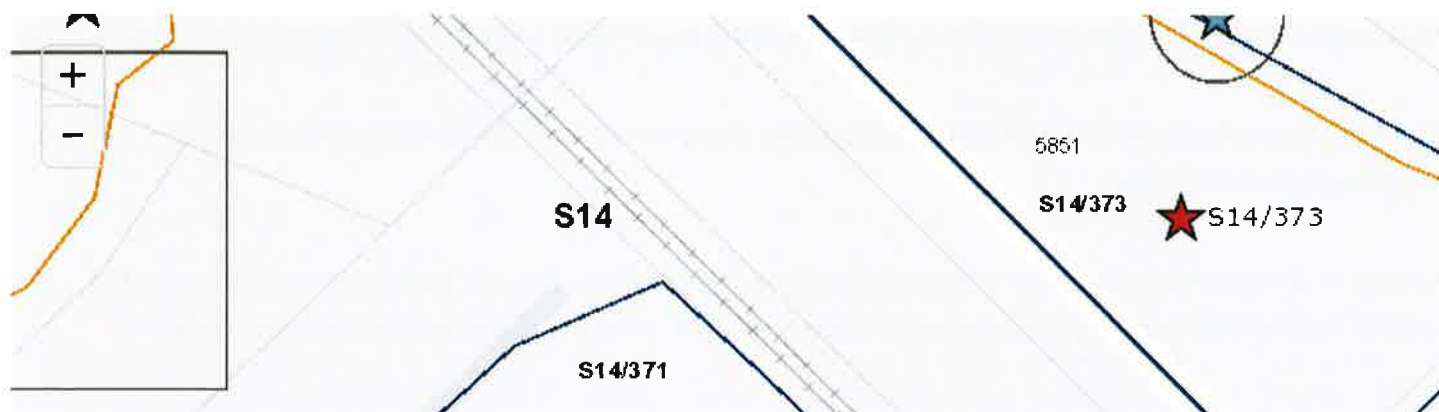
First name*: Kimai & Jay	Last name*: Huirama
Organisation:	
On behalf of: Ngati Tamainupo	
Postal address*:	
Suburb:	Town/City*:
Country:	Postal code*:
Daytime phone: 02102647451	Mobile: 0276443436
Email address*: Kimhuiramda@gmail.com	
Please tick your preferred method of contact* <input checked="" type="checkbox"/> Email <input type="checkbox"/> Postal	
Correspondence to* <input checked="" type="checkbox"/> Submitter <input type="checkbox"/> Agent <input type="checkbox"/> Both	
Trade competition and adverse effects:* <input type="checkbox"/> I could <input checked="" type="checkbox"/> I could not gain an advantage in trade competition through this submission.	
Note: If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part I of Schedule I of the Resource Management Act 1991.	
Would you like to present your submission in person at a hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> I do NOT wish to speak in support of my submission and ask that this submission be fully considered.	
If others make a similar submission I will consider presenting a joint case with them at the hearing (do not tick if you would not consider a joint case). <input type="checkbox"/> Yes <input type="checkbox"/> No	



NZAA Site Number S14/373

Status Pending

Seven borrow pits and associated modified soils recorded from 2012 aerial photography, lidar-derived elevation data and soil surveys. Part of a wider horticultural landscape between Ngaruawahia and Horotiu.



Site inspected by

Cruickshank, Arden. on 19/10/2017

NZTM Coordinates

E 1791120 N 5827410

Source of spatial data

On Screen

Finder Aid

Flat section on a terrace on the left bank of of the Waikato River, just south of Croall Crescent in Ngaruawahia, east of Great South Road.

Site Type

Maori horticulture

Features

Borrow pit, Soil - made

Description

Updated 09/05/2019 (Field visit), submitted by ardencruickshank , visited 19/10/2017 by Cruickshank, Arden.

Grid reference (E1791120 / N5827410)

Works in the vicinity of this site was monitored as part of stage 2 of the ultrafast fibre broadband national roll out (UFB2). No archaeological features or material was identified within the inspection buffer around this site. See attached map to see areas where archaeological inspections were undertaken in the vicinity of this site. See final report, Cruickshank, A. 2019. Ngaruawahia UFB2 Build and Horotiu Backhaul Feeder (HNZPT authority 2018/185) final report. Unpublished CFG Heritage Ltd report to Ultrafast Fibre and HNZPT.

No archaeological evidence was identified, but due to the nature of directional drilling and the small areas that are opened up, it is entirely possible to avoid features that are associated with the site.

Updated 11/05/2016 (other), submitted by malcolmhutchinson
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Grid reference (E1791120 / N5827410)

This site was recorded in April 2016 by M.G. Hutchinson as part of the Waikato District Plan Review Archaeological Heritage Project by Simmons & Associates. It was identified on remote sensing layers including aerial imagery from 2012, and lidar-derived elevation data flown in 2007-08.

Seven borrow pits and Maori-made soils on flats east of the Great South Road on the left bank of the Waikato River.

This site is part of a cluster of Maori horticulture activity along the left bank of the Waikato River between Ngaruawahia and Horotiu.

Grange et. al. identified a deposit of Maori-made soil covering approx. 178.7 ha, over much of what is now the southern half of Ngaruawahia, encompassing the road and rail corridor and the Ngaruawahia Golf Club.

[[Grange_Ngaruawahia.jpg Figure 1: Detail from the Grange et. al. map from 1935 showing extensive deposits of Maori-made soils along the left bank of the Waikato River.]]

Within this area, 224 borrow pits have been identified primarily from 2007 lidar elevation data. A 50 m buffer around pits in this cluster encloses an area of 54.9 ha. The pits occur in dense clusters on terraces above the river, and on the flat Hinuera surface. They are densest around the golf course.

This large cluster of horticultural activity was originally recorded as S14/121. The site has been further broken into records S14/349, S14/377, S14/378, S14/376, S14/375, S14/374, S14/372, S14/371, and S14/373. A cluster of borrow pits can also be seen west of Rangimarie Road and these have been recorded as S14/382 and S14/383. For the most part, sites have been divided by the transit corridor containing the NIMT railway and the Great South Road. This corridor effectively bisects the cluster with an 80 m wide strip, much of which has been subjected to quarrying for railway ballast.

[[MGH-22_fig2.jpg Figure 2: Lidar-derived hillshade over aerial imagery showing clusters of borrow pits south of Ngaruawahia.]]

S14/373 records a component of this cluster, comprising seven borrow pits visible on the edge of a river terrace, east of the transit corridor. This buffer area intersects with parcels Allot 82 SBRS OF Newcastle South, Section 2 SO 431799 and Allot 167 SBRS OF Newcastle South. On screen site extent is approximate only and is based on cadastral boundaries and the extent of features visible on aerial imagery attached as Figure 2.

The NZTM coordinates for 7 borrow pits recorded as part of this site are listed below.

no | easting | northing

----+-----+-----

1 | 1791107 | 5827403

2 | 1791025 | 5827489

3 | 1791154 | 5827340

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4 | 1791164 | 5827326

5 | 1791178 | 5827311

6 | 1791054 | 5827480

7 | 1791145 | 5827359

This site may be archaeologically contiguous with S14/371 and S14/372 to the west. It stands on the Hinuera surface, above a terrace occupied by Maori horticulture site S14/374, to the south.

Name**Ethnicity**

Maori

Period

Indigenous pre-1769

Associated Sites

S14/371 (/NZAA/Site/Index/S14~371)

S14/372 (/NZAA/Site/Index/S14~372)

Condition

Below surface

Condition Notes

Updated 09/05/2019 (Field visit), submitted by ardencruickshank , visited 19/10/2017 by Cruickshank, Arden.

During these works, no evidence was found, so no condition value can be assigned. It shall remain the same as previously stated.

Updated 11/05/2016 (other), submitted by malcolmhutchinson

The site has not been visited. The following statement is an estimate made by examining remote sensing data, the latest of which is the 2012 WRAPS aerial photographic survey.

The site has effectively been cut in half by the transit corridor, which is likely to have had a destructive effect on prehistoric archaeology within it.

The borrow pits to the east of the corridor appear to have sharper edges, or are deeper, which may argue in favour of preservation. The paddock which is Allot 82 SBRS OF Newcastle South has faint striations visible in the hillshade which may indicate ploughing.

Land Use

Grazing

Threats

Site Documents

Name	Status
backhaul feeder route.jpg (/NZAA/api/Document/d5e1fbaf-4b71-4c78-bcf7-b5f560ba7eb9)	Pending
Grange_Ngaruawahia.jpg (/NZAA/api/Document/2d6987db-9776-467c-b798-45150352f388)	Approved
MGH-22_fig2.jpg (/NZAA/api/Document/f76a3e05-dbf8-4f71-869d-6501f7d4a859)	Approved