

**BEFORE THE HEARING PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Proposed Plan Change 5 to the Operative Hamilton  
City District Plan

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**STATEMENT OF EVIDENCE OF DR WARREN JOHN GUMBLEY  
(ARCHAEOLOGY)**

**Dated 2 SEPTEMBER 2022**

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## INTRODUCTION

1. My full name is Warren John Gumbley.
2. I am an archaeologist with a PhD from The Australian National University. I have worked as an archaeologist in New Zealand for 40 years and have held a number of positions in that time, including working for the Department of Conservation and New Zealand Historic Places Trust. Since 1996, I have worked as a consultant archaeologist and am also currently an investigator on a research project based at Waikato University, which is examining the origins of pā. Although I have worked widely across New Zealand I have been working consistently in the Waikato for the last 30 years. My PhD is on the Waikato Horticultural Complex and I am an expert on the archaeology of the Waikato and more broadly, the adaptation of the Polynesian horticultural system to New Zealand.
3. I, and my colleague Matthew Gainsford, co-authored a report assessing archaeological matters arising under the proposed Plan Change 5 to the Operative Hamilton District Plan (**PC5**) which is Appendix I to the PC5 Assessment of Environmental Effects (**AEE**). I have prepared a further report which responds to submissions on PC5 that seek relief concerning archaeological matters which is **Attachment 1** to this report.

## CODE OF CONDUCT

4. I have read the Environment Court Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014 and agree to comply with it. I confirm that the opinions expressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

## **PURPOSE AND SCOPE OF EVIDENCE**

5. The purpose of my statement of evidence, which is presented on behalf of Hamilton City Council as proponent of PC5, is to summarise the historical/archaeological context in Peacocke and to describe the effects of PC5 on archaeological values, as set out in Appendix I to the AEE. I also respond to matters raised in submissions on PC5.

## **EXECUTIVE SUMMARY**

6. The area affected by the Peacocke Structure Plan includes archaeological sites typical of the Māori settlement pattern found along the Waikato River between Lake Karapiro and Taupiri. The area also includes archaeological sites relating to the early European agricultural settlement of the Waikato.
7. The locations, nature and extent of the archaeological sites associated with pre-European Māori occupation of the area are well known. The information about the early European settlement of the area is less well understood with only documentary evidence for their presence.
8. That is to say, the archaeological remains of sites belonging to the latter group have not been identified more precisely than general notions of their approximate locations, with only the Westonlea Homestead belonging to the De Quinicy/Peacocke family being known, albeit imprecisely.
9. Archaeology has been a largely uncontroversial element of the plan change and has only been identified as an issue in a handful of submissions.
10. Having reviewed the relief sought in these submissions, I support amendments to SUB-PREC1-PSP: P4 as set out in paragraph 30 below.

## TECHNICAL REPORTS

11. The Peacocke Structure Plan area includes what is effectively a representative selection of the archaeological landscape of the Middle Waikato Basin. The area affected by the structure plan includes two pā, an urupā/burial ground, parts of a waka tiwai on the Waikato River bed, and twenty sites associated with Māori horticultural practice. These sites are strongly focused on the Waikato River with a secondary focus on the Mangakotukutuku Stream.
12. The locations of most of the archaeological sites identified in Schedule 8B: Group 1 Archaeological and Cultural Sites, within PC5, are well understood and verified by field inspection with varying levels of precision, dependant on the nature of the field investigation methods. These vary from a simple site visit and pedestrian circuit, to examination by intrusive investigation methods. These, in turn, vary from examinations using a soil auger through to extensive archaeological investigations.
13. An exception to this is identification of the urupā (site A111), which is based on information contained in a sketch map included within site record S14/46 of the national archaeological site database, the New Zealand Archaeological Association Site Recording Scheme.<sup>1</sup> The sketch map was drawn from information received from W. A. Rush in 1970 and included annotations identifying a “large burial ground shallow” (emphasis in the original) that was “planted in pines and fenced off when found by grandfather” with a further annotation saying simply “adzes”, indicating that adzes were also found there.
14. Three Māori horticultural sites, A126, A127 and A140, have been identified from soil survey data and apparent borrow pits visible in the historical

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<sup>1</sup> Appendix I, pages 7-8; Figure 3.

aerial photographs. As far as I am aware, these sites have not been field checked.

15. Site A141 was recorded on information from the landowner, who “reported that a pit or posthole had been found during the excavation of a drainage ditch some years ago”, which had a “lens of karaka seeds in [the] base”. The identification of karaka seeds tends to lend weight to the veracity of this identification and to some extent parallels the recent identification of another storage pit site (S14/497) also located on a headland in the gully system. S14/497 is not included in Schedule 8B: Group 1, or Schedule 8C: Group 2 Archaeological and Cultural Sites.
16. Another site, A128, is recorded in the national database (as S14/243) as a Māori horticulture site. However, the characteristics identified in a geotech test pit, while similar, do not appear to be consistent with the sites generally found in the Waikato Horticultural Complex.
17. Typically, the distribution of pā in the local landscape is predictable. The mouths of tributary stream are typical locations for pā but the mouth of the Mangakotukutuku Stream is unusual because of the absence of a pā at this location.
18. The poverty of accurate or useful location information relating to the historic European homesteads has meant that none of these are represented in the archaeological record and hence are absent from the Schedule 8B: Group 1 Archaeological and Cultural Sites.
19. As I have noted in my report dated 24 August 2022 in **Attachment 1**, the polygons shown on the planning map include areas where the archaeology has been destroyed.<sup>2</sup> Polygons have been adjusted in two areas. With regard to A140, the southern boundary was adjusted to exclude Section 5

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<sup>2</sup> Pages 2-3.

SO 538898 and Section 6 SO 538898 on the basis that the archaeological data does not support the projection of the site extent south of Westonlea Drive. Similarly, with regard to A111 the boundary was adjusted in Lot 1 DP 480575 to the east of the new storm-water ponds to reflect the destruction of the site in this area. In addition, there are further areas where the archaeology has been destroyed but remain covered by polygons. I recommend that those polygons be removed as they serve no archaeological purpose.

## **RESPONSE TO SUBMISSIONS**

20. Five submitters seek relief relating to archaeology. These submitters were Heritage New Zealand Pouhere Taonga (**HNZPT**), Adare Company Ltd, Richard and Ann Pirrit, R and E Ward, and J H Bates. I summarise below the submissions and further submissions seeking or opposing amendments to plan provisions.

### **HNZPT – Submitter 9**

21. HNZPT's submission includes two submission points seeking amendments to the proposed provisions of PC5. I set these out below.
22. HNZPT's Submission point 9.3 seeks inclusion of A130 (S14/318) in Schedule 8B Group 1: Archaeological and Cultural Sites. HNZPT submits that the site has heritage values such that it will become an historic reserve when the future development of the Amberfield subdivision occurs. Therefore, HNZPT proposes it should be included within Schedule 8B: Group 1 to give it protection until the subdivision is developed to the point where the reserve is formed. The reserve will be formed as a condition of the Resource Consent for the Amberfield subdivision development, which also requires that a management plan is developed for the reserve. The area of the reserve is excluded from the Authority granted by HNZPT for

the development of Amberfield. It is worth noting that the part of this site to be included in a heritage reserve was identified, in part, because it was typical of sites of the Waikato and also because it included site lines to Nukuhau Pā and the cultural landscape on the eastern side of the Waikato River. While I can appreciate the logic of HNZPT's submission, I note that earthworks affecting a Schedule 8B: Group 1 site will require a resource consent. Currently the area of the future reserve is farmed and I understand this activity will continue until the subdivision development occurs. For this reason, I consider that the additional protection given to Schedule 8B: Group 1 sites is not necessary for A130 (S14/318).

23. HNZPT's Submission point 9.5 opposes proposed changes to SUB-PREC1-PSP:P4 in the notified version of PC5, specifically replacement of the words "avoids, remedies or mitigates adverse effects on,..." with "protects and where possible enhances any". HNZPT seeks retention of the original wording in the corresponding Operative District Plan provision. In my opinion, the word "enhance" in SUB-PREC1-PSP: P4 is vague and is a concept that is generally incompatible with heritage in practice, especially as it is applied to archaeological sites. I consider that enhance is an inappropriate word because it may lead to inappropriate actions that affect the integrity of the site, feature or item, potentially resulting in damage or destruction. I am aware of situations where this has occurred. I recommend alternative drafting, as set out in paragraph 30 below.

***The Adare Company Ltd – Submitter 53***

24. The Adare Company Ltd (**Adare**) further submission makes two points that relate to archaeology. The first (further submission point 5) is in response to the HNZPT submission seeking inclusion of S14/318 into Schedule 8B: Group 1 where they oppose HNZPT's proposal. For the reasons I have stated above, I agree with Adare's further submission point 5.

***R and A Pirit – Submitter 45***

25. In the submission by R and A Pirit, submission point 45.1 opposes inclusion of A111 Kairokiroki Waahi Tapu Taonga (S14/490 in Lots 1-3 DP 480575) and A140 (S14/327 in Section 6 SO 538898) the borrow pits in Section 6 SO 538898) in Schedule 8C: Group 2. The basis for opposing the inclusion of these sites is that neither site “holds sufficient heritage value after evaluation against the individual heritage criteria”. No specific information is submitted in support of this submission point, including a critique against individual heritage criteria.
26. I do not support this submission. I note that most if not all of S14/490 has been destroyed recently in the course of the formation of a stormwater treatment pond in relation to the construction of the new road formation at Peacocke. However, ample evidence for archaeological deposits lies within Lots 1-3 DP 480575. As well as the patu blank and probable urupā, S14/161 includes borrow pits and associated Māori-made soils that are an extension of S14/210 to the east. The threshold for inclusion of archaeological sites into Schedule 8C: Group 2 is low. Group 2 is, in effect, an inventory of archaeological and other cultural sites within the city that do not meet significance criteria for inclusion in Schedule 8B: Group 1. The evidence for the presence of archaeology in the identified lots is robust, and includes evidence for part of the area to have functioned as a burial ground (urupā).

***R and E Ward – Submitter 28 and J Bates – Submitter 29***

27. R and E Wards’ submission point 28.2, and submission point 1 in Bates’ submission, oppose the inclusion of A140 on Lot 1 DP 316288, Section 8 SO 538898, and Section 15 SO 538898 within Schedule 8C: Group 2. They seek that A140 be removed from Schedule 8C: Group 2. I do not support the relief sought in these submissions.



28. The archaeological information identifying the presence of archaeology within this lot is robust. This site is recorded in the national database as S14/327. Supporting information comes from soil survey data that identified Māori-made soils, historical aerial photography showing borrow pits within the identified lots, and a reference to the recovery of Māori artefacts from the small sand quarry on a sketch plan included within the record for the Kairokiroki Pā (entry S14/46 in the national database). This sand quarry was located at the corner of Peacockes Road, opposite the entry to Weston Lea Drive and it will have destroyed part of the archaeological deposits here. A house has also been constructed adjacent of the old sand quarry. Together, both of these actions will have damaged the archaeological site but not destroyed it. In my view, the site should be retained on Schedule 8C: Group 2.

#### **MDRS AMENDMENTS**

29. I have reviewed the amendments to PC5 to incorporate the Medium Density Residential Standards appended to Samuel Foster's statement of evidence dated 2 September 2022 and consider that the amendments do not raise any archaeological issues.

#### **RECOMMENDED PC5 PROVISIONS**

30. As a consequence of the HNZPT submission, I support the following amendments to the notified version of SUB-PREC1-PSP: P4:

Subdivision protects and where possible ~~enhances~~ promotes and compliments any:

1. Scheduled heritage items.
2. Scheduled archaeological and cultural sites.

3. Scheduled significant trees.
  4. Scheduled significant natural areas.
  5. The Waikato River and gullies and riverbanks, lakes, rivers and streams.
28. I consider that the amended wording is clearer in its intent and I agree with the change.

**Dr Warren Gumbley**

**2 September 2022**

**ATTACHMENT 1**

## *Plan Change 5: Archaeology Technical Report*

**By Dr Warren Gumbley**

**24 August 2022**

### **1. Preamble**

The area contained within Plan Change 5 includes a number of identified and potential archaeological sites relating to the period before the invasion of the Waikato in 1863-1864 and the following period of colonial settlement. As such, the former group relate exclusively to Māori settlement of the area. The latter relates to the development of the area for European-style farming. These sites include two known pā, 20 areas of Māori horticultural practice, one identified urupā, several artefact/taonga finds (including a waka tiwai in the riverbed) and three 19th Century homesteads identified from records. These sites, except the historic homesteads, are listed in Schedule 8B (Table 1). While the general locations of the historic homesteads are known, the information is imprecise, and these places have not been recorded in the national database<sup>1</sup>.

Table 1: Summary table for archaeological sites in Schedule 8B, Groups 1 and 2.

<b>HCC Schedule number</b>	<b>Group</b>	<b>NZAA no.</b>	<b>site type</b>
A4	1	S14/46	Kairokiriki Pā
A30	1	S14/47	Whatukoruru Pā
A100	2	S14/176	Māori horticultural Site (borrow pits and Māori-made soils)
A111	2	S14/116	Artefact find place (and site of an urupā)
A124	2	S14/210	Māori horticultural Site (borrow pits and Māori-made soils)
A125	2	S14/326	Māori horticultural Site (borrow pits and Māori-made soils)
A126	2	S14/320	Māori horticultural Site (borrow pits and Māori-made soils)
A127	2	S14/322	Māori horticultural Site (borrow pits and Māori-made soils)
A128	2	S14/243 & S14/193	Māori horticultural Site (borrow pits and Māori-made soils) and waka find site.
A129	2	S14/477	Māori horticultural Site (borrow pits and Māori-made soils)
A130	2	S14/318	Māori horticultural Site (borrow pits and Māori-made soils)
A131	2	S14/480	Māori horticultural Site (borrow pits and Māori-made soils)
A132	2	S14/64	Māori horticultural Site (borrow pits and Māori-made soils)

<sup>1</sup> N.Z. Archaeological Association Site Recording Scheme.

A133	2	S14/319	Māori horticultural Site (borrow pits and Māori-made soils)
A134	2	S14/479	Māori horticultural Site (borrow pits and Māori-made soils)
A135	2	S14/478	Māori horticultural Site (borrow pits and Māori-made soils)
A136	2	S14/321	Māori horticultural Site (borrow pits and Māori-made soils)
A137	2	S14/476	Māori horticultural Site (borrow pits and Māori-made soils)
A138	2	S14/224	Māori horticultural Site (borrow pits and Māori-made soils)
A139	2	S14/475	Māori horticultural Site (borrow pits and Māori-made soils)
A140	2	S14/327	Māori horticultural Site (borrow pits and Māori-made soils)
A141	2	S14/286	Pit

A137 shown on the planning map<sup>2</sup> but has been missed in Schedule 8B Group 2.

The locations of most of the archaeological sites identified in Schedule 8B, within Plan Change 5, are well understood and verified by field inspection with varying levels of precision, dependant on the nature of the field investigation methods. These vary from a simple site visit and pedestrian circuit, to examination by intrusive investigation methods. These, in turn, vary from examinations using a soil auger through to extensive archaeological investigations. The exceptions are:

- A111 (S14/161) was originally recorded on the basis of a find of a partially made patu. A sketch map of the area, deposited in the national database file for site S14/46 (A4), indicates that the area where the patu was found has also served as an urupā. Therefore, it is possible the patu was a grave good associated with the urupā.
- A140 (S14/327), A126 (S14/320), A127 (S14/322) have been identified and recorded on the basis of evidence from soil survey data identifying Māori-made soil and borrow pits visible in historical aerial photographs.
- A128 (S14/243) was recorded on the basis of a series of characteristics identified during monitoring of geotechnical testing. The attributes are not those typical of horticultural sites in the Middle Waikato Basin and so this site merits further evaluation.

I have also noted that the absence of a pā at the mouth of the Mangakotukutuku Stream is an anomaly in the site distribution pattern along the river between Cambridge and Ngaruawahia.

It should be noted that the polygons shown on the planning map include areas where the archaeology has been destroyed. Polygons have been adjusted in two areas. With regard to A140 the southern boundary was adjusted to exclude Section 5 SO 538898 and Section 6 SO 538898 on the basis that the archaeological data does not support the projection of the site extent south of Westonlea Drive. Similarly, with regard to A111 the boundary was adjusted in Lot 1 DP 480575 to the east of the new storm-water ponds to reflect the destruction of the

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<sup>2</sup>

[https://experience.arcgis.com/experience/a41ae306be594b2484e798e56f994e12?data\\_id=dat aSource\\_4-0%3A25494](https://experience.arcgis.com/experience/a41ae306be594b2484e798e56f994e12?data_id=dat aSource_4-0%3A25494)

site in this area. I recommend that those polygons be modified accordingly as they serve no archaeological purpose.

## 2. Submissions

### 2.1 Heritage New Zealand Pouhere Taonga (Submission 9)

Heritage New Zealand Pouhere Taonga's (HNZPT) submission includes four points where issues were raised with regard to proposed provisions of PC5 and for which relief was sought. One of these, submission point 7, related to consultation with NAMTOK.

Submission point 3 relates to the inclusion of A130 (S14/318) in Schedule 8B Group 2. HNZPT submit on the basis that the site has heritage values such that it will become an historic reserve when the future development of the Amberfield Subdivision occurs. Therefore, HNZPT proposes it should be included within Group 1 to give it protection until the subdivision is developed to the point where the reserve is formed. The reserve will be formed as a condition of the Resource Consent for the Amberfield subdivision development, which also requires that a management plan is developed for the reserve. The area of the reserve is excluded from the Authority granted by HNZPT for the development of Amberfield. It is worth noting that the part of this site to be included in a heritage reserve was identified, in part, because it was typical of sites of the Waikato and also because it included site lines to Nukuhau Pā and the cultural landscape on the eastern side of the Waikato River. While I can appreciate the logic of HNZPT's submission, I note that earthworks affecting a Group 2 site will require a resource consent. Currently the area of the future reserve is farmed and I understand this activity will continue until the subdivision development occurs. For this reason I do not think that the additional protection given to Group 1 sites is necessary.

In HNZPT's Submission point 5 they oppose proposed changes to SUB-PREC1-PSP:P4, specifically insertion of the word 'enhance'. HNZPT seeks retention of the original wording in the corresponding Operative District Plan provision, specifically the retention of the phrase "avoids, remedies or mitigates adverse effects on, ...". In my opinion, the word "enhance" in SUB-PREC1-PSP-P4 is vague and is a concept that is generally incompatible with heritage in practice, especially as it is applied to archaeological sites. I consider that enhance is an inappropriate word because it may lead to inappropriate actions that affect the integrity of the site, feature or item so that it is damaged or destroyed. I am aware of situations where this has occurred. Therefore, I support the alternative wording for SUB-PREC1-PSP:P4 proposed by HCC, as follows (red=PC5 Notified Version, green=PC5 Hearings Version 1):

Subdivision ~~avoids, remedies or mitigates adverse effects on;~~ protects and where possible enhances promotes and compliments any:

1. Scheduled heritage items.
2. Scheduled archaeological and cultural sites.
3. Scheduled significant trees.
4. Scheduled significant natural areas.
5. The Waikato River and gullies and river banks, lakes, rivers and streams.

In submission point 6 HNZPT wants further research on the possibly anomalous absence of an identified site at the mouth of Mangakotukutuku Stream and to check the status of S14/243 as a horticultural site. This is consistent with one of the recommendations in the 2021 technical report<sup>3</sup>. I believe that this anomaly in the cultural landscape should be examined.

## **2.2 Adare (submission 53)**

Two of the submission points made by Adare relate to archaeology. The first is in response to the HNZPT submission seeking inclusion of S14/318 into Schedule 8b Group 1 where they oppose HNZPT's proposal.

The second submission point (6) opposes further research relating to the potential for a pā at the mouth of the Mangakotukutuku Stream. Although not explicitly stated it is assumed that this also applies to the assessment of the status of the recorded horticultural site S14/243. No relief is sought on this matter.

## **2.3 Pirits (submission 45)**

In submission points 4 and 5 the Pirits oppose inclusion of A111 Kairokiroki Waahi Tapu Taonga (S14/161 and S14/490 in Lots 1-3 DPS 480757) in Group 2 Schedule 8B and inclusion of the borrow pits A140 (S14/327 in Section 6 SO 538898) in Group 2 Schedule 8B. On the basis that neither site “holds sufficient heritage value after evaluation against the individual heritage criteria”. The submitter wants removal of A111 (S14/161 & S14/490) from Schedule 8B. No specific information is submitted, including a critique against individual heritage criteria.

I see no reason to support this submission. I note that most if not all of S14/490 has been destroyed recently in the course of the formation of a storm water treatment pond in relation to the construction of the new road formation at Peacockes. However, ample evidence for archaeological deposits lies within Lots 1-3 DPS 480757. As well as the patu blank and probable urupā, S14/161 includes borrow pits and associated Māori-made soils that are an extension of S14/210 to the east. The threshold for inclusion of archaeological sites into Group 2 is low. Group 2 is, in effect, an inventory of archaeological and other cultural sites within the city that do not meet significance criteria for inclusion in Group 1. The evidence for the presence of archaeology in the identified lots is robust, and includes evidence for part of the area to have functioned as a burial ground (urupā).

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<sup>3</sup> Gumbley & Gainsford. 2021. *Peacocke Structure Plan: Archaeology*. Report to HCC.

## 2.4 Wards (submission 28) and Bates (submission 29)

Point 2 in the Wards' submission, and point 1 in Bates' submission, oppose the inclusion of Lot 1 DP 316288, Section 8 SO 538898, and Section 15 SO 538898 within Schedule 8B Group 2 (A140). They wish for A140 to be removed from Schedule 8B.

The archaeological information identifying the presence of archaeology within this lot is robust. This site is recorded in the national database as S14/327. Supporting information comes from:

- soil survey data that identified Māori-made soils,
- historical aerial photography showing the presence of borrow pits in that location.
- reference to the recovery of Māori artefacts when the sand quarry was operating in a sketch plan included with the site record for Kairokiroki Pā (S14/46 in the national database).

As noted above, part of the site has been destroyed by sand quarrying and a dwelling has been erected on the site. Both of these actions will have damaged the site but not destroyed it.

On this basis it merits retention in Schedule 8B Group 2.

## Recommendations

In relation to the submissions received I recommend:

1. A130 (S14/318) remains in Schedule 8B Group 2.
2. That transfer of the provision relating to archaeology are transferred to alternate wording to SUB - PREC1-PSP: P5 as proposed by HCC so that application of the term enhance can be avoided. The proposed wording is satisfactory in this regard –

Subdivision ~~avoids, remedies or mitigates adverse effects on;~~ protects and where possible enhances promotes and compliments any:

1. Scheduled heritage items.
2. Scheduled archaeological and cultural sites.
3. Scheduled significant trees.
4. Scheduled significant natural areas.
5. The Waikato River and gullies and river banks, lakes, rivers and streams.



