

IN THE MATTER

of the Resource Management
Act 1991

BY

Weston Lea Limited

FOR

Land use and subdivision
consents for a large scale
residential development and
associated land use activities
and sites works at Peacocke,
Hamilton.

**STATEMENT OF EVIDENCE OF DR RACHEL DARMODY FOR
HERITAGE NEW ZEALAND POUHERE TAONGA**

INTRODUCTION

1. My full name is Rachel Sarah Darmody.
2. I have a Bachelor of Arts with Honours (First Class) (1995) in Anthropology, a Master of Arts (with Distinction) (1997), and a PhD (2000) from the University of Otago.
3. I have been actively involved in New Zealand archaeology for 25 years and have been a member of the New Zealand Archaeological Association (the **NZAA**) since 1994.
4. I am the Senior Archaeologist for Heritage New Zealand Pouhere Taonga's Lower Northern Region (Waikato and Bay of Plenty), based in the Tauranga Office. I have worked as an archaeologist for Heritage New Zealand Pouhere Taonga since February 2001.
5. I am responsible for advocating for the protection and management of New Zealand's archaeological sites and ensuring that any person wanting to damage or modify a site complies with the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. I have worked on over 2,000 archaeological authority applications.
6. I have read, understood and will comply with the Environment Court's Code of Conduct for Expert Witnesses contained in the Environment Court's Consolidated Practice Note 2011 and have complied with it in preparing this evidence. I also agree to comply with the Code when presenting evidence. The evidence I give is within my area of expertise and represents my best knowledge about this matter. I have not omitted to consider material facts known to me which might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

7. My evidence is given in support of Heritage New Zealand's position in respect of the Weston Lea Limited large scale residential development.
8. In my evidence I will:
 - a. Briefly outline the role of Heritage New Zealand Pouhere Taonga;
 - b. Explain the requirements under the Heritage New Zealand Pouhere Taonga Act 2014 for archaeological authorities;
and
 - c. Comment on the draft conditions for the application.

THE ROLE OF Heritage New Zealand Pouhere Taonga

9. Heritage New Zealand is an autonomous Crown Entity constituted under the Heritage New Zealand Pouhere Taonga Act 2014, and within the Ministry for Culture and Heritage portfolio. It is governed by a Board and a Maori Heritage Council. Its purpose is to provide for the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.
10. Heritage New Zealand is the national statutory authority responsible for archaeological site protection. Section 44 of the Heritage New Zealand Pouhere Taonga Act 2014 directs that an authority is required from Heritage New Zealand in order to modify or destroy any archaeological site or sites (recorded or unrecorded).
11. An authority is required whether or not the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the proposed activity is permitted under the relevant Regional or District Plan.

12. One of Heritage New Zealand's roles is therefore to manage the process of permitting modification or destruction of archaeological sites through the issuing of archaeological authorities.
13. Heritage New Zealand Pouhere Taonga has granted Weston Lea Limited an Authority (number 2019/69, Attachment 1) for the destruction of 11 recorded archaeological sites and any unrecorded archaeological sites within the subject land. It is typical to get unrecorded archaeological sites in this type of gardening landscape that are unable to be identified prior to development.
14. The Authority has been granted for a 10 year period to cover the timeframe of the development. The conditions of the authority are based around the "Archaeological Site Management Plan" and the "Mitigation and Research Strategy" prepared by Warren Gumbley and submitted with the application. These documents will guide the recovery of archaeological information and it is our expectation that they will be reviewed prior to each major stage of development to ensure they reflect the current state of knowledge of the archaeology. The conditions of the Authority provide for this.
15. We understand that the archaeological authority process under the Heritage New Zealand Pouhere Taonga Act 2014 does not remove the necessity for Council to satisfy its own requirements under the Resource Management Act 1991 (**RMA**) to consider archaeological sites. However in setting the consent conditions, Heritage New Zealand would encourage the Hearing Commissioner to keep the overlaps to a practical minimum. Heritage New Zealand notes there are several recommended conditions that are already conditions on the archaeological authority and one (no. 62) which is in conflict.
16. **PLANNER'S RECOMMENDED SUBDIVISION CONSENT CONDITIONS**
17. I do not agree with recommended condition 62 (page 14) because it relates to the discovery of unrecorded archaeological sites which has already been covered by the Authority decision. It is not appropriate that there are recommended conditions that have the

potential to contradict the regulatory process already set out in the Authority decision.

18. Condition 62(c) would require Heritage New Zealand to be notified to enable their consent procedure to be initiated. This is not appropriate because Weston Lea Limited already has Heritage New Zealand's approval for the destruction of unrecorded archaeology under the Authority.
19. Condition 62(d) is not appropriate because iwi/hapu have already given their approval for the destruction of this archaeology under the Authority decision.
20. Conditions 62(e), 62(f) and 62(g) (relating to koiwi tangata) are also covered by the Authority decision (Authority 2019/69 condition 5).

WARREN GUMBLEY'S EVIDENCE

21. I disagree with point 71 of Mr Gumbley's evidence where he states that the conditions are consistent and do not conflict with the conditions of Heritage New Zealand Pouhere Taonga's Authority 2019/69. Condition 62 is in conflict. Heritage New Zealand Pouhere Taonga has already approved the destruction of the unrecorded archaeology and it should be managed under the "Archaeological Site Management Plan" and the "Mitigation and Research Strategy" prepared by Warren Gumbley and referred to in the Authority conditions, not consent condition no. 62.

CONCLUSION

22. Condition 62 should be deleted because it will cause confusion with the Authority decision and is unworkable. It is not appropriate that there is a recommended condition that has the potential to contradict the regulatory process already set out in the Authority decision.

Dated 16 April 2019



Dr. Rachel Darmody

Attachment 1: Authority decision 2019/69