

FORM FOR THE ASSESSMENT OF SECTION 44 APPLICATIONS

A GENERAL AUTHORITY APPLICATION:

File ref: 2022/070
11013-019

1 Applicant Details

Applicant: Waikanae Land Company Limited
Address: c/- Fitzherbert Rowe Lawyers
65 Rangitikei Street
Palmerston North 4410
Attn. Maurice Rowe
Application No. and Acceptance Date: **2022/070 of 4 August 2021**
District Council: Kapiti Coast District Council
Site Location: Barrett Drive, Waikanae
Land Description/status: Part Lot 1 DP71625
Person nominated under s45: Russell Gibb

2 Archaeological Site Details:

NZAA Site Numbers: Unrecorded
Site Type: Possible Midden/ kōiwi tangata
Number on New Zealand Heritage List: N/A

3 Description of archaeological sites and sources including background, previous modifications and recent site history. Include references: - section 46(2)(d)

Stage 4B subdivision (also referred to as Barrett Drive) is located inland from Waikanae Beach and is the location of an unfinished subdivision.

To understand the current situation at the Stage 4B subdivision, the history of the wider area needs to be understood.

Wider history and formation of a Maori Cemetery that became known as the Kārewarewa Urupā.

In the early 1800s Muaupoko occupied a large swath of land between Otaki and Paekakariki. Around 1817 Te Rauparaha and his sister Waitohi joined Te Atiawa relatives and travelled south to the Kapiti region and came into conflict with Muaupoko. A series of migrations occurred as Ngati Toa and their allies including Te Atiawa moved south from Kāwhia and Taranaki to join their relatives. Around 1825, Ngati Raukawa began arriving in the region in large numbers, which eventually led to conflict with Te Atiawa who were by now established at Kenakena Pa at Waikanae. Conflict between the two led to the battles of Haowhenua in 1834 and Te Kuititanga in 1839 and the establishment of the border between each iwi's rohe at the Kukutauaki Stream to the north towards Otaki.

In the 1870s Maori land in the area was awarded individualized title and subdivision of the large blocks. The subject property is located within the Ngārara Block. The Ngārara Block was divided in two in January 1874 and the two sections became known as Ngārara East and Ngārara West. The subject property is in Ngārara West which was later divided into the Ngārara West A, B, and C blocks. The subject property is located within the Ngārara West A section 14 which was partitioned out of Ngārara West in 1890. This section was originally 260 acres.

In 1896 members of Te Ātiawa applied to the Māori Land Court for an urupa/Maori Cemetery to be partitioned from the larger Ngārara West A14 block and recognised as an urupā. The property in question was identified and was partitioned for use as a Maori Cemetery in 1919. The land was surveyed in 1920 and the 20 Acre cemetery became Ngārara Block section A 14B No1. The urupā/Maori Cemetery is the area that has become to be referred to as the Kārewarewa Urupā.

A survey plan referred to as ML 1491, published in 1898, records the subdivision of part of Ngārara West A, including section 14. The surveyor's field book identifies 'graves' in an area adjacent to the Waimea River north of the confluence with the Waikanae River. The graves are marked with three small rectangles. The marked graves corresponded to the location to where the burials were revealed in 2000 (see below section- Stage 6 subdivision (Tamati Place) and the encountering of koiwi tangata). This plan has reinforced that the area was indeed used as a cemetery.

The Waikanae Land Company purchased Ngārara West A14B1, the 20-acre block, in August 1969 from the Maori Trustee as agent for the Maori Owners. Following the purchase, the Waikanae Land Company applied to the county council for removal of the cemetery designation. A letter from the Company to Horowhenua County Council dated 26th August 1969 noted that enquiries made by the Company indicated the land had never been used as a burial ground for Maori but may have had some Europeans buried there. Use of the land as a traditional Maori burial site has been disputed and removal of the cemetery status of the land was objected to by a number of iwi. The Waikanae County Town Committee County Clerk in a letter dated 10 August 1970 to the Waikanae Land Company stated "“THAT Objection 3/1 be DISALLOWED, the Council being of the opinion that the designation “Maori Cemetery’ shall be lifted, the land having been sold by the Maori Owners to a Development Company, and there being no certain evidence that it is an historical Maori Burial Ground, or that interments have taken place since it was set apart for a future cemetery in 1919.”¹ A decision was made in 1970 to remove the cemetery status of the land. Since 1969 The Waikanae Land Company has developed approximately 200 residential sections and created extensive internal reserve and lagoon areas.

In 2000 there were two areas left to be developed by the Waikanae Land Company. Stage 6 subdivision (Tamati Place), and Stage 4B subdivision (Barrett Drive).

Stage 6 subdivision (Tamati Place)

The Stage 6 subdivision (Tamati Place) is located 73m (property entrance to property entrance) to the north of the Stage 4B property (Barrett Drive) and is within the area that is referred to as the Kārewarewa Urupā. Stage 6 subdivision and Stage 4B subdivision are separated physically by Barrett Drive. Understanding what has occurred in Stage 6 subdivision (Tamati Place) is important to understanding Stage 4B subdivision (Barrett Drive) and gives weight to the possibility of encountering further remains within Stage 4B subdivision.

In 2000 trenches for services were excavated along the centrelines of the proposed roads (to be known as Tamati Drive and Wi Kingi Place) within the Stage 6 area of the original subdivision. Kōiwi tangata were exposed, along with reported midden deposits during the works. According to biological anthropologist Associate Professor Nancy Tayles, there were possibly 9 individuals. Of these 9 at least 2 individuals were Māori while the other 7 were inconclusive. It is noted that some reports indicate the possibility of 11 individuals having been removed (noted in the Wai 2200 Waitangi Tribunal Report 2020. The Kārewarewa Urupā Report: Pre-Publication version page

¹ Gibb. R, Geometria Ltd. 29 June 2021. Archaeological Assessment of Effects: Waikanae Land Company - Stage 4B Subdivision Part Lot 1 DP 71625. Unpublished assessment commissioned by: Waikanae Land Company C/- Fitzherbert Rowe Lawyers p.8

51). Pieces of wood identified along with the remains were interpreted to be part of coffins which implies that they were post- Colonial burials. No further work was undertaken on the subdivision, Stage 4B or 6, since the kōiwi tangata were uncovered in 2000.

The kōiwi tangata were reportedly reburied somewhere in the Stage 6 area under archaeological authority 2001/189. According to a number of reports the remains were reburied back on site close to where they were encountered. This location was noted by Paora Ropata in his brief of evidence for the Waitangi Tribunal and is noted in Archaeology Solutions Ltd, 'Archaeological Geomagnetic Report: Tamati Place, Waikanae, Kapiti Coast', April 2018 which was subsequently reported in Gibb's 2021 archaeological assessment.

In order to ascertain whether there was evidence to suggest that further burials may be present within the Stage 6 area, a Ground Penetrating Radar (GPR) survey and Electromagnetic Induction (EM) survey was undertaken by Martin King of G.P.R Geophysical Service in 2002 or 2003 (there is a discrepancy in the date between Gibb 2021 and O'Keefe 2012. Gibb has 2003 and O'Keefe has 2022. The discrepancy is likely due to the date of the works being in 2002 and the date of the report being in 2003). This survey recorded anomalies within the subdivision. A geomagnetic survey was undertaken by Dr Hans Bader in 2017 and a magnetic gradiometer survey and GPR survey was undertaken by Southern Geophysical in 2019.

Bader wanted to determine the depth and nature of the substrate and the location and depth of dumped material to assist in the interpretation of the geomagnetic survey. To verify the results of his geomagnetic survey Bader, under HNZPT authority 2017/316, excavated a test pit at the site in April 2017. Using the stratigraphic interpretation, Bader deduced that the original surface was close to the contemporary surface in the north and north-western part of the geophysical investigation area, and therefore, the anomalies could be interpreted as "possible small pits cut into the original topsoil."

The results of the third geomagnetic and GPR survey undertaken by Southern Geophysical in 2019 revealed two distinct areas. The results indicated a southern area with no evidence of buried objects or disturbance that could be interpreted as possible burial plots; and a northern area where anomalous features were identified which could be possible burial plots. The anomalies identified in 2003, 2017 and 2019 in the Stage 6 subdivision have not been ground truthed. While geophysical survey is a useful assessment tool it is not considered valid until the results have been ground truthed.

Stage 4B subdivision (Barrett Drive)

Stage 4B subdivision has not been subjected to geophysical survey.

There are no identified burials or archaeological evidence recorded in or within the immediate vicinity of the Stage 4B property. In addition, the archaeological potential has been identified as low by Russell Gibb, the project archaeologist, as there are no recorded sites on the subject property, it has been subject to previous earthworks and the area where a burial would likely be placed (on a high dune ridge) is not present on the subject site².

It is noted that only part of Stage 4B subdivision is located within the area identified as the Kārewarewa Urupā. The boundary of the urupā crosses over the subject property. While only part

² Gibb. R, Geometria Ltd. 29 June 2021. *Archaeological Assessment of Effects: Waikanae Land Company - Stage 4B Subdivision Part Lot 1 DP 71625*. Unpublished assessment commissioned by: Waikanae Land Company C/- Fitzherbert Rowe Lawyers p.67

of the project area is within the area identified as the Kārewarewa Urupā previous earthworks within the boundaries of the urupā have unearthed kōiwi tangata (recorded as R26/456) giving grounds to the fact that further remains may be encountered. The possibility that burials or other archaeological evidence is present within the Stage 4B site cannot be ruled out and if an archaeological authority is granted there will be no ability to preserve these remains. While it is noted that kōiwi tangata and midden sites are the most common type of finds along the Kāpiti Coast and that numerous archaeological authorities are granted for subdivisions where midden sites are known and where kōiwi tangata may be encountered Heritage New Zealand Pouhere Taonga does not grant archaeological authorities for the purposeful disturbance of kōiwi tangata or urupā. The application to Heritage New Zealand Pouhere Taonga included the whole property (the area within and outside the Kārewarewa Urupā). As Heritage New Zealand Pouhere Taonga cannot separate the area within and outside the urupā the only course of action is to recommend declining the whole archaeological authority.

Source

Archaeology Solutions Ltd., 2018. Archaeological Geomagnetic Report: Tamati Place, Waikanae, Kapiti Coast. Report prepared for Fitzherbert Rowe Lawyers.
Gibb, R, Geometria Ltd. 29 June 2021. *Archaeological Assessment of Effects: Waikanae Land Company - Stage 4B Subdivision Part Lot 1 DP 71625*. Unpublished assessment commissioned by: Waikanae Land Company C/- Fitzherbert Rowe Lawyers
O’Keeffe, M. 2012. *Tamati Place – Archaeological Issues*: Report to Waikanae Land Company and New Zealand Historic Places Trust. Unpublished archaeological assessment
O’Keeffe, M. 2017. *Tamaki Place authority 2017/316*. Report to Heritage New Zealand Pouhere Taonga.
Tayles, N. 2001. Report on human skeletal remains from Tamati Place, Waikanae. Unpublished
Wai 2200 Waitangi Tribunal Report 2020. *The Kārewarewa Urupā Report: Pre-Publication version*.

- 4 Activity proposed and likely effect on site(s): - section 46(2)(f)
The Waikanae Land Company Limited (WLC) propose to develop a five-lot subdivision of Part Lot 1 DP71625 with a common shared access road leading from Barrett Drive. The lots range from 543m² to 702m² in area. Earthworks to form the subdivision allotments will require approximately 1,833m³ of cut and 1,578m³ of fill, while the road will have 38m³ of cut and 157m³ of fill.

Part of the proposed subdivision area is located within the Kārewarewa Urupā.

There is reasonable cause to suspect that unrecorded subsurface sites shall be encountered as there are recorded archaeological sites in the area and the associated past development within Stage 6 encountered kōiwi tangata. The earthworks proposed mean that any archaeological material encountered during the proposed works would be destroyed.

A resource consent application has been filed with the Kapiti Coast District Council (reference RM210152) for the development.

- 5 Consents:
• Landowner Y

B ARCHAEOLOGICAL ASSESSMENT

- 6 Comments on archaeological (and other relevant) values of site: - section 46(2)(g)
Condition: Unknown but likely modified given past earthworks on the subject property.

Rarity: Midden are the most common site type recorded on the Kapiti coast. Kōiwi tangata are to be expected along the Kapiti Coast but they are not that commonly encountered or reported.

Contextual Value: The project area is situated in a heavily occupied and settled part of the Kapiti Coast. A portion of the project area is within part of the original Maori Cemetery designation referred to as Kārewarewa Urupā.

Information Potential: The archaeological potential of the subject property is considered low as the landscape has been previously modified. Any archaeological evidence present would contribute to the understanding of Maori occupation and use of the area. If kōiwi tangata are encountered and they are associated with Kārewarewa Urupā they will confirm that the area was used for burials.

Amenity Value (education, visual etc): Low. The land is private.

Cultural Associations: Te Atiawa ki Whakarongotai

- 7 Comment on effects of proposed development on the archaeological values and broader historic heritage values- section 46(2)(g)
If any archaeological evidence is encountered during the works, it will be destroyed.
The proposed subdivision will impact the Kārewarewa Urupā.
- 8 Comment on what options to avoid were explored by the applicant. If applicable make particular reference to our direct involvement and influence on this avoidance. Reference dates and discussions:-section 4(b)
No options to avoid have been explored by the developer.
- 9 Comment on what will be done to offset known impacts on the archaeological site (eg. investigation, entered on the List, covenant, report, agreement for future public access, oral history research, covenanting, registration, pouwhenua, interpretation):
The fact that an authority application has been made is an assumption that impacts on any archaeological sites will be mitigated if the project archaeologist monitors the works and any archaeological material is identified, investigated, analysed, recorded and reported on. This may be sufficient for mitigating the effects on archaeological evidence in this case, but archaeological information recovery is not necessarily mitigation for effects on broader cultural values especially if kōiwi tangata are disturbed.
- 10 Comment on how you have taken the interests of the landowner and applicant into account: - section 59(1)(a)(iii) and 46(2)(h)

The recommendation to decline this authority is not in the interests of the landowner who is the authority applicant. The landowner wishes to complete the land subdivision of this area which is surround by residential properties. The landowner does not see any other use the land.
- 11 Comment on this application in relation to the Purpose and Principles of the Act: sections 3 and 4
The applicant has had the development assessed.

The granting of the archaeological authority is not in line with the Purposes and Principles of the Act. Heritage New Zealand Pouhere Taonga cannot in good conscience grant an archaeological authority that allows development on a property which is within the bounds of a known Maori Cemetery referred to as Kārewarewa Urupā.
- 12 Any other comments:
n/a
- 13 Archaeologist's summary of archaeological aspects:

- (a) application is not capable of being granted as the works are proposed within the Kārewarewa Urupā

Recommend that application be declined.

Kathryn Hurren, Senior Archaeologist

Date: 27 August 2021

C VALUES ASSESSMENT FOR SITES OF INTEREST TO MĀORI

- 14 Tangata Whenua and Applicant Consultation Details: - sections 46(2)(g) and 46(2)(h).
The applicant has met with Te Atiawa ki Whakarongotai since 1991, WLC have been consulting with Te Ātiawa Ki Whakarongotai and their appointed representatives regarding the development of the WLC land at Waikanae Beach. A brief summary of consultation undertaken, and responses received is addressed in section 4.1.1 of the attached archaeological assessment (Gibb 2021). On 9 September 2020 Te Ātiawa Ki Whakarongotai were informed of the appointment of a new project archaeologist (Russell Gibb) by WLC and asked if they would like to meet. Mahinarangi Baker, representing Te Ātiawa Ki Whakarongotai, replied that they have no interest in engaging with WLC at this time or furthering any conversations regarding the archaeology of the site, noting that their views have been well represented via briefs of evidence provided to the Waitangi Tribunal. Nonetheless, WLC via Steven Kerr informed Te Ātiawa Ki Whakarongotai on 5 July 2021 that WLC has lodged an application for the subdivision of its land at Barrett Drive (Stage 4B) with the Kapiti Coast District Council and extended an offer to meet with Te Atiawa ki Whakarongotai representatives to discuss the application. No reply was received from Te Ātiawa Ki Whakarongotai. WLC continues to endeavour to undertake consultation with Te Ātiawa Ki Whakarongotai regarding the proposed stage 4B development without prejudice. The authority application and assessment were also sent to Te Āti Awa Ki Whakarongotai prior to lodging with HNZPT.

Dr Mahinarangi Baker, Manager of Taiao Unit, Te Ātiawa and the views expressed were:
The site of the proposed works is within the urupā (cemetery) known as Kārewarewa, which is a historically significant burial site in Waikanae. The Trust notes that the applicant's Archaeological Assessment of Effects acknowledges that a portion of the site was part of the 20 acre area which was designated as "Maori cemetery" in the Waikanae County Town District Scheme Map 1968 (Figure 1).

The urupā and wāhi tapu area has been previously identified and mapped in the Kāpiti Coast District Council (KCDC) Wāhi Tapu Project, as site 'WTS02319A Tamati Place Urupā'). The extent of wāhi tapu site WTS02319A is depicted in the KCDC report as below in Figures 2 and 3.



Figure 1: Excerpt from Waikanae County Town District Scheme Map 1968

Figure 2: The WTS02319A area identified for protection in the KCDC report on the urupā



Fig. 1: Showing area to be protected (source: KCDC Maps).



Fig. 4: Showing 0 Barrett Drive (source: KCDC Maps).

Figure 3: The properties implicated by the identification of WTS02319A

The area identified is proposed for protection by the Kapiti Coastal District Plan and partially includes the proposed works site. The Trust notes that aside from the distinct cemetery boundaries, given the history of the site and general area, the remainder of the proposed works site is also highly significant from a historical perspective, as outlined in the Trust’s 2015 Cultural Impact Assessment, and there is therefore a high degree of sensitivity in the remaining area of proposed works site. According to the Ātiawa ki Whakarongotai Charitable Trust Response to Application for an Archaeological Authority: Barrett Drive, Waikanae letter to Heritage New Zealand Pouhere Taonga (received 28 July 2021) successive incidences of disturbance of Kārewarewa in attempts to develop the site has repeatedly resulted in the discovery and destruction of human remains (kōiwi) buried at the site, most recently being the last attempt by the applicant to develop the site in 2000.

The CIA describes the repeated disregard for the human dignity of those buried at Kārewarewa, our iwi as their descendants, and those people who may through no fault of their own find themselves occupying a property within a cemetery is the cause of significant grief, offence and socio-psychological impact for our iwi. The people of Ātiawa ki Whakarongotai have made repeated attempts for over 120 years to protect the urupā; from 1896 through to taking a Treaty of Waitangi Claim to the Waitangi Tribunal as part of the WAI 2200 Porirua ki Manawatū Inquiry. In May 2020, the Waitangi Tribunal convened by Deputy Chief Judge Caren Fox, published an early report (attached) under urgency on the iwi Claim in relation to Kārewarewa where they identified ‘the urupā requires urgent protection’ and that the wider iwi was prejudiced by the desecration of urupā in previous attempts to develop it.

The Trust has indicated that they see no more merit in consulting with the applicant as they have provided ample evidence both directly, in support of wāhi tapu research by KCDC and via the Waitangi Tribunal process to demonstrate the inappropriateness of developing the urupā for housing, however the applicant has shown no respect for this.

Based on the information above and evidence provided by the Trust, the Kāpiti Coast District Council wāhi tapu report and the Waitangi Tribunal report, the Trust, Te Ātiawa ki Whakarongotai strongly oppose the granting of any archaeological authority in relation to this site.

Consultation is considered adequate for this application.

15 Summary of Māori Values of affected site: – section 46(2)(g)

The archaeological site and features concerned are unknown, however, it cannot be discounted that the proposed excavation works on the urupā may disturb kōiwi tangata. The effects of the proposed works on the significant and tapu Maori values of the site including the kōiwi tangata will be adverse. Mana whenua, Te Ātiawa and the Trust Te Ātiawa ki Whakarongotai do not support the desecration of Kārewarewa urupā and oppose the development of the remainder of the site.

Heritage New Zealand also believes that whether or not the urupā has been desecrated, excavated, disturbed, or modified, it retains its tapu. Therefore, the Maori values of the urupā/kōiwi tangata are significant and tapu to iwi/hapu of Te Ātiawa and warrants full preservation.

16 Effects of Proposed Development on Māori Values: – section 46(2)(g)

The proposal has the potential to affect the Māori values of the sites concerned.

No archaeological sites of Maori origin are recorded in the work area however Kārewarewa urupa is located on part of the work site and was scheduled in the Kapiti City Council District Plan in 2000 site 'WTS02319A.

Kārewarewa along with other sites and wahi tapu were recorded in tribal books by tribal elders (and survivors) in the 1800's. The archaeologists state that there is reasonable cause to suspect that archaeological evidence comprising kōiwi tangata/burials are present within the Kārewarewa urupa/wahi tapu.

Mātauranga torowhānui - holistic knowledge – From a tikanga Māori perspective Kārewarewa Urupā is the entire site, the traditional site which is not split between areas as has been proposed by the developer the Waikanae Land Company, (Stage 6 subdivision, Tamati Place and Stage 4 subdivision Barrett place). Te Ātiawa ki Whakarongotai Manawhenua as Kaitiaki (caretakers) of Kārewarewa take a holistic viewpoint which includes the concepts of wahi tapu and its physical, metaphysical, and intangible dimensions.³

17 Comment on what will be undertaken to offset known impacts on the Māori values e.g. signed protocols that meet legal requirements: - section 46(2)(g)

There are no protocols from an iwi perspective that will offset known impacts on the Māori values. The intangible values such as wahi tapu values will be compromised by further development on the remaining area of Kārewarewa urupā.

18 Comment on whether this application applies to a statutory acknowledgement area and how these requirements have been taken into account:- section 59(1)(a)(v)

This application does not fall under any Statutory Acknowledgement Area.

³ Waahi Tapu & the Kapiti: Research Report, prepared by Pātaka Moore, Whaiao Ltd, for Ati Awa ki Whakarongotai, Ngāti Raukawa , Ngāti Haumia and the Kāpiti Coast District Council, Final Setember 2012.

19 Māori Heritage Council: – section 49(1)(a)

This application relates to a site of interest to Māori. This application is considered to be

- TAKE HŌHONU: Referred to Māori Heritage Council Archaeology Committee

The reasons for allocating this application as take hōhonu are:

- where staff are recommending a decline of an application.
- the application is opposed by iwi and has no iwi endorsement.
- the application has the risk of appeal of a decision
- the application has a high risk of appeal of a decision

This application has been referred to the Māori Heritage Council Archaeology Committee pursuant to section 49(1)(a) of the Act.

Under section 49(1)(a) of the Act, an application over sites of interest to Māori must be referred to the Māori Heritage

Anthony Tipene-Matua, Senior Pouarahi

Date: 14 September 2021

D RECOMMENDATION

20 Compliance with the provisions of Part 3 Subpart 2:

All processes are in compliance with Part 3 Subpart 2 of the Heritage New Zealand Pouhere Taonga Act 2014.

The recommendation of the Manager Archaeology is:

DECLINE

Heritage New Zealand Pouhere Taonga declines to grant an authority to Waikanae Land Company Limited pursuant to section 48(1)(b) of the Heritage New Zealand Pouhere Taonga Act 2014 for the proposal to undertake earthworks for a subdivision within the area described as Part Lot 1 DP71625, Waikanae, Kapiti District.



Vanessa Tanner, Manager Archaeology

Date: 14 September 2021