



# **Tuwharetoa mai Kawerau ki te Tai**

**NGATI TUWHARETOA (BOP) SETTLEMENT TRUST**

## **CULTURAL IMPACT ASSESSMENT**

**BAY OF PLENTY REGIONAL COUNCIL**

**Rangitaiki Floodway Spillway Modifications**

**APPLICATION FOR RESOURCE CONSENT**

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## **Purpose**

The purpose of a Cultural Impact Assessment (CIA) is to identify any actual or potential cultural effects when proposing to undertake any works that require a Resource Consent. Early identification of cultural effects can enable modification of a proposal, if required, to avoid, remedy or mitigate adverse effects.

The CIA will provide the Consent Authority and applicant with sufficient information relating to any cultural effects, and therefore provide a broader understanding of all actual or potential effects that may result from a proposed activity.

## **Cultural Effects**

An assessment of cultural effects is required where works proposed to be undertaken have the potential to disturb or impact cultural, spiritual, historic, and traditional values.

Situations where this assessment is required include:

- Where a parcel of land subject to a consent application has registered or unregistered waahi tapu (sacred sites) in situ;
- Where the proposed works will have an impact on a parcel of land, not the subject of the consent, that has registered or unregistered waahi tapu in situ;
- Where a parcel of land subject to a consent application will limit access to a waahi tapu;
- Where any works are likely to involve the disturbance of areas that have not been modified in recent history;
- Where an area to be disturbed relates to a Statutory Acknowledgement or Deed of Recognition;
- Where a resource is proposed to be utilised has a cultural, spiritual, historic, and traditional association to Ngati Tuwharetoa (BOP).

This list is intended to guide the use of the assessment process and is neither prescriptive nor exhaustive.

## **Applicant**

The Applicant is the Bay of Plenty Regional Council (BOPRC). The Applicant is applying for a resource consent to vary an existing consent to authorize an alternative design for the spillway structure on the eastern side of the Rangitaiki River. The existing consent authorises various flood protection activities, primarily in relation to the Rangitaiki Floodway and the spillway at the head of the floodway.

## **Proposal**

The Applicant is applying for resource consent to vary an existing consent to authorize an alternative design for the spillway structure on the Rangitaiki River. The spillway structure is located on a section of the riverbank on the eastern side of the Rangitaiki River approximately 2.5km upstream of Edgecumbe. The spillway regulates the flow of floodwaters into the Rangitaiki Floodway.

The Rangitaiki Floodway is part of the Rangitaiki flood protection scheme which is designed to manage flows within the stop banks for flood events. The floodway runs parallel to the river and conveys a portion of the floodwaters across rural land on the eastern side of the Rangitaiki River and joins Reid's Canal before flowing back into the Rangitaiki River approximately 1km upstream of the river mouth at Thornton.

The Applicant seeks to change the design of the spillway structure to relieve the flood flows when the river flow exceeds 520m/s, compared to the consented spillway design which allows water into the floodway when the river flow exceeds 640 m/s. The key difference between the consented and proposed spillway design is the reduced height of the lower fixed crest weir. This allows water to spill from the Rangitaiki River into the floodway at a lower flow level than the rubber dam design.

The effect of the proposed spillway design is to reduce the risk of stop bank failure on the lower Rangitaiki River during high flows. Changes in the upstream management of floodwaters means that this alternate design will not increase the frequency of flood flows down the floodway compared to that authorized under the current consent.

The proposed activity will require earthworks to recontour the land immediately below the spillway structure to assist directing the flow of floodwaters into the floodway. Excavation of an outlet channel downstream of the spillway is also required.

The Applicant also seeks retrospective authorization for the construction and use for up to 5 years of a temporary lowered floodway which was constructed in an emergency works during the April 2017 flood event.

### **Methodology – Cultural Assessment**

The proposed activity falls within an area of interest for Ngati Tuwharetoa (BOP) Settlement Trust (NTST) and relates to the Rangitaiki River Statutory Acknowledgement. This Acknowledgement recognises that Ngati Tuwharetoa (Bay of Plenty) has a cultural, spiritual, historic, and traditional association with the river. As the proposed activity involves earthworks on land adjacent to the river, NTST's role is to ensure that the cultural, spiritual, historic, and traditional values of Ngati Tuwharetoa (Bay of Plenty) are protected and that the Applicant have regard for these cultural values.

To assess the cultural effects of the proposed activity, a review of the proposal and site visit to the Rangitaiki Spillway Floodway located on the eastern side of the Rangitaiki River upstream of Edgecumbe was undertaken in April 2022. The assessment was conducted by NTST Cultural Advisor – Graham Te Rire and Elaine August – Ngati Tuwharetoa Holdings Ltd. Also in attendance was Tim Fergusson for the Applicant.



The following points are noted:

- An AEE for the proposed activity was completed and available for this assessment.
- The findings in the archaeological assessment report by Insitu Heritage include:
  - *“No recorded or visible archaeological sites will be affected by the floodway upgrade. The likelihood of encountering intact archaeological features during the proposed work is assessed to be low, on the basis that no sites have been encountered during any previous work in the vicinity, and the lack of historical evidence for the presence of sites in this area.”*
  - *“Given the low probability it is considered that having the Bay of Plenty Regional Council Archaeological Site Discovery Protocol in place during all earthworks would provide a sufficient safeguard to ensure that if archaeological deposits are encountered, they are appropriately investigated and recorded.”*
- Condition 11 of consent 65616 sets out an Accidental Discovery Protocol which requires the consent holder to contact Ngati Tuwharetoa (Bay of Plenty) in the event:
  - there are any potential effects on identified sites of significance.
  - any unidentified sites of significance, artefacts or koiwi are discovered during works.

### **Effect On Cultural Values**

After making an assessment, the NTST Cultural Advisor has concluded that the proposed activity as set out in the resource consent application for the Bay of Plenty Regional Council to authorize an alternative design for the spillway structure on the Rangitaiki River, will have no cultural effects.

However, this conclusion is subject to the accidental discovery of any unidentified archaeological sites or artifacts being unearthed during the proposed works. If such discovery is made, then the Applicant and its contractors must follow the procedures set out in the *Accidental Discovery Protocol* for Ngati Tuwharetoa (BOP) Settlement (Appendix).

Notwithstanding the above, Ngati Tuwharetoa (BOP) Settlement Trust (NTST) support the proposal and request that a final copy of the consent conditions and decision be sent to close our internal processes.

### **Recommendations**

1. Prior to the commencement of the proposed works, the consent holder and its contractors familiarise themselves with the *Accidental Discovery Protocol* for Ngati Tuwharetoa (BOP) Settlement Trust.

## **Acknowledgement**

NTST wish to acknowledge the Applicant for engaging in the consultation process and trust that this Assessment will assist in the proposal with the Consenting Authority.

**Jackie Adlam**



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**Ngati Tuwharetoa (BOP) Settlement Trust**

## **ACCIDENTAL DISCOVERY PROTOCOL**

### **Protocol for the Accidental Discovery of Koiwi or other Taonga**

#### **Definitions:**

**Archaeological site** means any place in Aotearoa, New Zealand (including buildings, structures, or shipwrecks) that;

(a) Either:

(i) was associated with human activity that occurred before 1900; or

(ii) is the site of the wreck of any vessel where that wreck occurred before 1900; and

(b) is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand (Historic Places Act, 1993).

Archaeological features and remains can take the form of burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or 19<sup>th</sup> century glass and crockery, ditches, banks, pits, old building foundations, artefacts of Ngati Rangitahi and/or Ngati Tuwharetoa origin, or human remains.

**Heritage New Zealand Pouhere Taonga Act and Requirements** - In addition to any requirements under the Resource Management Act 1991, The Heritage New Zealand Pouhere Taonga Act 2014 protects all archaeological sites whether recorded or not, and they may not be damaged or destroyed unless an Authority to modify an archaeological site has been issued by the Heritage New Zealand.

**Koiwi** means human remains such as skeletal material.

**Taonga** means cultural artefacts such as implements, weapons or decorations traditionally and historically utilised by Tangata Whenua and included parts or the remains thereof. Archaeological features such as rua (caves) and pits are also taonga. People can gain a greater understanding of the way that pre-European Maori lived.

**Site** means the relevant location within the land development area.

## **1.0 Purpose**

1. To manage and protect the integrity of 'recorded' and 'non - recorded' archaeological sites from damage and loss.
2. To maximise the opportunity to retrieve physical and archaeological evidence from disturbed sites.
3. To obtain quality information on the lives, activities food and resource use, trails, and campsites of Ngati Tuwharetoa (BOP) Settlement Trust ancestors from archaeological sites.
4. To ensure that the management of any Koiwi or other Taonga discovered is appropriate and in adherence with Accidental Discovery Policy Principals of Ngati Tuwharetoa (BOP) Settlement Trust.

## **2.0 Notification of Works**

1. That Ngati Tuwharetoa (BOP) Settlement Trust be notified in writing 5 days prior of works commencing and finishing including full contact details of the Onsite Manager and Site Manager

## **3.0 Procedures to follow when Koiwi or other Taonga are Unearthed**

These procedures will be adopted if koiwi, taonga or archaeological features are unearthed or are reasonably suspected to have been unearthed during operations:

1. Immediately it becomes apparent or is suspected by workers at the site that koiwi, taonga or archaeological features have been uncovered, all activity in the immediate area will cease.
2. The plant operator will shut down all machinery or activity in the area immediately and shall notify the Onsite Manager of the occurrence.
3. The Onsite Manager shall take steps immediately to secure the area in a way that ensures that koiwi, taonga or archaeological features remain untouched as far as possible in the circumstances and shall notify the Site Manager.
4. The Site Manager may authorise minor works to secure the site and to ensure that the site does not pose a health or safety risk to members of the public or other persons who may have access to the site. Best endeavours shall be made to ensure that any such work does not further damage or disturb any koiwi, taonga or archaeological features which have been uncovered.
5. The Site Manager will notify Ngati Tuwharetoa (BOP) Settlement Trust on 07 323 4164 or the Office located at 1 Parimahana Drive, Kawerau, that it is suspected that koiwi, taonga or archaeological features have been uncovered at the site.
6. It should be noted that Ngati Tuwharetoa (BOP) Settlement Trust hold a Protocol with the Crown that applies across the Ngati Tuwharetoa (Bay of Plenty) Antiquities Protocol Area.
7. Subject to any directions from the Police or any other legal requirements to the contrary, all koiwi are expected to come into the temporary custody of Ngati Tuwharetoa (BOP) Settlement Trust who will be responsible for immediate placement, in consultation with the Police and/or Coroner.
8. Ngati Tuwharetoa (BOP) Settlement Trust will contact the appropriate Kaumatua to act on their behalf in this matter to guide and advise the operators and any other parties as to the appropriate course of action and will immediately advise the Site Manager of the identity of such persons and such other details may be appropriate in the circumstances.
9. The Site Manager will notify the New Zealand Police and Heritage New Zealand if it is suspected that koiwi, taonga or archaeological features have been uncovered at the site.

10. Ngati Tuwharetoa Pukenga and Kaumatua are vested with discretion to request the attendance of a suitably qualified and experienced archaeologist if the Historic Places Trust is unable to send an officer to the site.
11. The Site Manager will ensure that all site staff are available to meet and guide Kaumatua, Police or Heritage New Zealand to the site, assisting with any requests that they may make (within reason and relevant to the recovery and recording of significant items and features).
12. If Kaumatua are satisfied that the koiwi or taonga are of significance, they will make a consensus decision as to how they are to be dealt with and will communicate this decision to the land owner, NZ Police and such other parties as are considered appropriate.
13. The Site Manager shall ensure that Kaumatua are given the opportunity to undertake karakia and any such other cultural ceremonies and activities at the site in accordance with Tuwharetoa Tikanga.
14. Activity in the relevant area will remain halted until Kaumatua, NZ Police and Heritage New Zealand (as the case may be) have given approval for operation in that area to recommence. In the event rua (caves), pits or other archaeological features are discovered, a comprehensive report, inclusive of photographs of the rua are to be taken and labelled by the archaeologists and copies sent to Ngati Tuwharetoa (BOP) Settlement Trust, Heritage New Zealand, NZ Archaeological Association File keeper and the Heritage Co-ordinator at the Bay of Plenty Regional Council.
15. Before any decision can be reached as to the destination of custodianship of artefacts the archaeologist must complete a report and provide copies to Ngati Tuwharetoa (BOP) Settlement Trust. Ngati Tuwharetoa (BOP) Settlement Trust will consider the report and discuss the destination and custodianship of the artefacts.
16. The applicant will cover all expenses incurred by Ngati Tuwharetoa (BOP) Settlement Trust, Kaumatua and others relating to the implementation of this Protocol.