

**Submission Evidence: Des Heke**  
**Hearing: Bay of Plenty Regional Council Regional Policy Statement Urban Plan**  
**Change**  
**21 June 2023**  
**Tauranga**

1. Ko Desmond Parekura Heke Kaiawha toku ingoa. Ko Ngati He, Ngai Te Ahi oku Hapu. Ko Hairini me Maungatapu oku Marae. I tipu ahau kei te kainga o oku Koroua, Kuia ki Ohauiti, Tongaparaoa 2B2B2 te Wa Kainga. E noho ana au I toku taumata kei Otanewainuku SD, Te Papa o Te Aira kei Oropi ko te Waoku.

**Cultural Redress**

2. The Proposed Plan Change will cause an adverse effect on the loss of cultural heritage features, traditions and values by the continued facilitation of western policies to develop the natural and physical land resources for market driven growth. The Bay of Plenty Region Council planning and natural resource management policies -in particular the Western BOP Subregion has experienced uncontrolled high growth that has resulted in adverse effects that are evident:

- unaffordable living conditions
- failure with infrastructure to cope
- under investment in Maori Land
- polluted waterways, and the
- loss of cultural heritage features.

Redress expressed in this Submission is in the context of hierarchy in relation to effects. These relate to avoid, remedy and mitigate. Bring on 2021 amendments, RMA section 104 1 (ab) ...'offset and compensate'.

3. The last 20 years of the 50 year SmartGrowth Regime has nothing to be proud off. Urban and transportation focus clearly does not move into the direction of the physical limitations of the catchment planning which is on the horizon with environmental law reforms. 20 years ago Regional Urban Growth policies have opened up the way the likes of the Sewage superhighway '-The Southern Pipeline-' causing environmental pressure on the receiving catchment and cultural traditions and areas of the Rangataua and Te Maunga/Otira as well as the untold amount of cultural heritage sites, features, traditions and values. This has been my experience in the traditional ancestral areas mog my ancestors throughout our lands.
4. Welcome Bay, Ohauiti, Oropi and Papamoa there has been many Heritage Authority granted to destroy and record archaeological sites and features. With the role of many tangata whenua as kaitiaki to monitor and observe this loss.
5. In recent years since 2015 I have been involved in the loss of wetlands only to have some reprieve where biodiversity values are recognised and provided for with 'mitigation' and 'offset' where there is no option to avoid or remediate. Compensation for loss of biodiversity has been recognised as a value and duly provided for in policy with regards to wetlands, however no such value or mechanisms are placed on cultural values. This is a political issue as the majority of political decision making is based on the values of the decision makers which offer no embrace of the cultural

heritage loss because there is no ancestral relationship. This is why I am here today, to advocate for the cultural heritage values to be recognised and provided for.

### **Treaty of Waitangi Principle of Redress**

6. Legacy issues of the Resource Management Act 1991 and the Regional and District and City Urban Growth Planning has experienced 30 plus years of Cultural Heritage Loss. An examination of destroyed archaeological sites and features found, the loss of promulgated significant cultural heritage sites removed from relevant Planning documents is enough evidence to identify there is an actual adverse issue here with the current system of planning. Tangata whenua continue to make a stance to aspirational and bottom line on cultural heritage only to have the planning system including the Courts referring to legislation which will led to mitigation. The 'Redress Principle' is applicable for Cultural Heritage loss.

### **Examples of Urban Planning and the loss of Cultural Heritage to Ngai Te Ahi and Ngati He: Removed from the Draft Tauranga City Plan**

7. Identified in the promulgated Draft Tauranga City Plan is site SMA M54. This site was subsequently removed by Tauranga City Council. Within an area identified on the Ohauti No2 original ML Survey Plan as Pukepoto is illustrated as a raised feature. Using georeferencing mapping technology this site SMA M54 is within the ML Survey Plan. Nearby to the hilltop or 'tihi' of Pukepoto where a farmhouse once stood recent excavations uncovered a significant amount of archaeology.
8. These findings led to a Ngai Te Ahi Ngati He Wananga and Hikoi where a site visit was undertaken by the Hapu on 15 February 2017. This was attended by many including our Kaumatua/Kuia and rangatahi. Many made the effort to witness the 'mahi o nga tipuna'. In attendance was site Archaeologist Brigid Gallagher and Landsdale's Developer Consultant John Collie. The outcome of this occasion was to preserve the Pukepoto, in particular the 'tihi' from any further subdivision and excavation.
9. Another site to Ngai Te Ahi and Ngati He 'Te Kakariki' which is now the Three Creeks Estate, Adler Drive, Ohauti. Significant cultural and archaeological features have been discovered and destroyed since 2015. These have included artefacts, taonga, mauri stone, eel weir fence, pou and occupational evidence such as ovens, gardens, whare, food storage and preparation, and tip or disposal features. I have actively monitored these sites.
10. At the site Te Kakariki I seen the loss of many archaeological sites and places of cultural heritage to make way for Tauranga City Council growth enabled subdivisions. At this development I also seen the complete destruction of a mahinga kai waterway which was a creek very significant to our learning of mahi tuna and also a regular harvesting area. This waterbody was converting into a stormwater treatment system and a new watercourse was developed.
11. During the last of the excavations within the original creek in a wooden post was found which was found within the original creek bed and is most likely part of a n eel weir, or Pa tuna. I believe the experience here at Te Kakariki is no different to adverse cultural effects. Even the offline stormwater treatment came at an expense in the loss of mahinga kai tuna and watercress.
12. **Significant Site Te Kakariki removed from the promulgated Draft City plan. Archaeological Report Threes Excerpt p26-27**

#### 14 Preliminary Discussion and Conclusion

The preliminary conclusion of these archaeological works are that the papa kainga, Te Kakariki, has been revealed and systematically destroyed through the use of archaeological methods and earthwork machines, under the conditions of archaeological authority 2016/42, in preparation for the Three Creeks Subdivision.

Ongoing cultural consultation and monitoring has been undertaken by Des Heke with suspected discoveries identified by him, as well as earthworks contractor s, namely Waitohi Contractors.

Due to issues related to modification within the stormwater reserve within the subdivision, Heritage New Zealand Pouhere Taonga has been part of consultation, as have other hapu representatives.

At least 50% of all archaeological features identified across the property within Stages 1 and 2 have been sampled in order to interpret stratigraphic relationships and realise information potential, with full excavation occurring should they be identified as rare, unique or atypical, increasing their value and significance.

Digital survey by Total Station has occurred where ever possible in order that a complete picture, as preserved below ground surface in 2016- 2017, could be mapped and therefore ensure that Te Kakariki be preserved through record. The completeness of this information increases education value of the property, and can be shared with interested groups, and tangata whenua who whakapapa to this area.

Without the benefit of analytical results at this time, the current picture of Te Kakariki is a multiphase complex comprising;

- A tahi (site U14/231) in the neighbouring property immediately south,
- A northern spur extending into the Three Creeks property on which archaeological site

U14/3187 was previously recorded , on which two clusters of features have been recorded. These appear to represent people living on, and/or using the high points over time, with evidence of return in the short and possibly the long term .

Post and stake hole alignments, large pits with roofs, small pits on two different orientations, complex floors and evidence of retaining walls and erosion issues have been recorded.

- Below the naturally defensive hill and steep slopes is a flat area, that ends at a section of the Kaitemako Stream, with at least three small groups of pit clusters showing different alignments and current interpretation is the relate either to small holdings of food, or seedling storage between seasons, within a garden/food cultivation environment.

- No evidence of settlement in the form of whare/housing has been identified, however post holes associated with these are considered to be fragile in terms of archaeological survival. It is the tentative conclusion of this report that they more than likely once sat episodically on high and low areas, but destroyed as a result of land modification and contouring since European settler/farmer arrival in the mid- 1800s.

- The presence of a large pit with barbed wire at the base may be evidence of Maori features still being present in the landscape after European arrival.

- The complex had the benefit of the Kaitemako Stream and two tributaries forming confluences in the stream channel, with a natural water fall at the far west of the property. Traditional resources from the streams, such as tuna (eel) and fresh water mussel, would have supported settlement, the water itself supported gardening and health, and the stream channel provided an access route to the Tauranga Moana, the kai moana beds and fisheries. The sites use as a defensive pa is questionable given the lack of a ditch and bank system or palisade lines, and its close proximity to the primary defensive

*pa in the district, still recognised by kaitiaki, which is within viewing distance and short walk, may be the reason for this.*

*The date of first land use, and settlement is not known however the visibility of Mauao from the property may indicate early migrations from the coastal areas, but this is not substantiated. The end date of use is likely to be immediately following first settler allocation in the mid 1800s.*

*Undoubted archaeological loss has occurred on this property as a result of earthworks associated with the conversion of the land to farmland, then kiwifruit and construction of the Sievewright's house, but it is not alone. Recent residential development along Adler Drive and Riddington Rise on the western flanks of this large complex, which could be termed a papa kainga or settlement pa, has irreversibly altered the archaeological landscape and once recognised site of cultural significance. At this time it is estimated that over 50 - 75% of Te Kakariki has been destroyed as a result of residential subdivision and development.*

*It is recommended that steps should be taken to preserve an aspect of the papa kainga with archaeological site U14/231 being the most obvious option. This tihi and surrounding land (extent not determined at this time) should be exempt from future development, and provisions be put in place for access to the preserved area, with a marker appropriate to the place recognising Te Kakariki should be installed.*

*It is recommended that to better utilise the information recovered from Three Creeks Sub-division, meet legal conditions of authority 2016/421 and fulfil standard levels of archaeological analysis that environmental processing of samples occur, and where appropriate conduct radiocarbon dating to establish date ranges for site use.*

### **Joint Spatial Planning for Tangata Whenua**

13. I can confirm that the BOP Regional Council did not provide an opportunity to assess, survey and monitor water, sites, significant sites and waahi tapu at any point in time.
14. Joint Spatial Planning was resourced which led to the Urban Plan Change and this Joint Spatial Plan did not include any Tangata Whenua Spatial Plan covering the same subject areas. This Planning process only seemed to expedite Western BOP subregional planning aspirations by facilitating market driven forces to develop land. During this process no iwi and/or hapu management planning was coordinated and produced in this process.
15. It has somewhat been superseded by the SmartGrowth regime to transition into the Regional Spatial Planning process as per the Spatial Planning law reforms. This regime is heavily relied upon and invested by BOP Regional Council. Zero outcomes for Iwi Spatial plans to date that address the urban development issue around cultural heritage loss.

### **Cultural Heritage Offset, Compensation and Redress**

16. Cultural off-setting is concerned with recognising the value and loss of historically and culturally important lands and other assets represented in, as part of and that may be within or on the land and associated with it and other aspects of the environment that are historically and culturally important to Tanga Whenua, that are adversely affected or lost as a result of urban development. Cultural off-setting is concerned with providing a route ahead for development while also achieving

recognition and mitigation of effects. It is not the complete answer but part of a suite of methods.

17. Part 2 of the RMA and the expected Natural and Building Environment Act (NBE) include specific provision for protection and protection of the relationship of Maori and their culture and traditions and their ancestral lands, water, sites, waahi tapu and other taonga from the effects of development and subdivision. The RMA and NBE both include provision for avoidance, remedy and mitigation of effects.
18. Cultural off-setting provides for this in the same manner as ecological off-setting. It provides for compensating consideration being provided for adverse effects of development on historical and cultural assets of Maori. Off-setting methodology can be included in provisions of the district and regional plan alongside other provisions concerned with avoiding, remedy or mitigation of effects. It requires combination of policy criteria and rules including mapping to identify areas where historically important lands, features and other cultural assets such as those referred to in Part 2 of the RMA are located.
19. Off-setting provisions might provide a combination of specific requirements relating to particular sites and a range of methods applicable to any sites. Cultural offsetting provisions in the replacement of the RMA below. This will provide support for Cultural Heritage Redress.

#### **Schedule 5**

#### **Principles for cultural heritage offsetting redress**

20. s 63(2)

*The following sets out a framework of principles for use in cultural heritage offsetting. These principles provide a standard for cultural heritage offsetting and must be complied with for an action to qualify as cultural offsetting.*

#### **1 Adherence to effects management framework**

*A cultural heritage offset is a commitment to redress any more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.*

#### **2 When cultural heritage offsetting is not appropriate**

*(1) Cultural heritage offsetting is not appropriate if—*

- (a) cultural heritage values cannot be offset to achieve a net enhancement outcome:*
- (b) cultural heritage values are adversely affected so that they will be permanently lost.*

*(2) This principle reflects a standard of acceptability for demonstrating, and then achieving, a net enhancement in cultural heritage values. Examples of where offsetting will be inappropriate include where—*

*(a) residual adverse effects cannot be offset because the cultural heritage affected is irreplaceable or vulnerable:*

*(b) effects on cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse.*

#### **3 Net enhancement**

*The cultural heritage values that would be lost through the activity to which the offset would apply are counterbalanced and exceeded by the proposed offsetting activity, making the result a net enhancement.*

#### **4 Additional enhancements**

*A cultural heritage offset achieves enhancement in cultural heritage greater than the enhancements that would have been achieved with the offsetting, such as enhancements that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.*

#### **5 Leakage**

*The design and implementation of offsetting avoids displacing activities that are harmful to cultural heritage in other locations.*

#### **6 Landscape context**

*Cultural heritage offset actions are undertaken—*

*(a) where this will result in the best heritage outcome, preferably close to the impact site or within the same district; and*

*(b) where the landscape context is considered for both the impact site and the offset site.*

#### **7 Long-term outcomes**

*Cultural heritage offsetting is managed to secure outcomes from the activity that last at least as long as the impacts, and preferably in perpetuity.*

#### **8 Time lags**

*The delay between the loss of cultural heritage at the impact site and enhancement at the offset site is minimised so that the calculated enhancement is achieved within the consent period.*

#### **9 Conservation principles and mātauranga Māori**

*The design and implementation of a cultural heritage offset is a documented process informed by heritage conservation principles and mātauranga Māori (where applicable).*

#### **10 Stakeholder participation**

*Opportunity for the effective and early participation of stakeholders is demonstrated when planning a cultural heritage offset, including its evaluation, selection, design, implementation, and monitoring.*

#### **11 Transparency**

*The design and implementation of a cultural heritage offset, and communication of its results to the public, is undertaken in a transparent and timely manner.*

#### **Cultural heritage redress**

*The following is a framework of principles for use in cultural heritage redress. They are a standard for cultural heritage compensation and must be complied with for an action to qualify as cultural heritage redress.*

#### **12 Adherence to effects management framework**

*Cultural redress compensation is a commitment to redress more than 1 minor residual adverse impact and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.*

#### **13 When cultural heritage redress is not appropriate**

*Cultural heritage redress is not appropriate where cultural heritage values cannot be compensated for, because, for example,—*

*(a) the affected cultural heritage is irreplaceable or vulnerable:*

*(b) the effects on the cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse:*

*(c) there are no technically feasible options for securing proposed enhancements within an acceptable time frame*

**14 Scale of cultural heritage redress**

*The values lost through the activity to which the cultural heritage redress applies are balanced by positive effects to the cultural heritage, outweighing the adverse effects on the cultural heritage.*

**15 Additional enhancements**

*Cultural heritage compensation achieves enhancements in cultural heritage that are greater than would have occurred in the absence of compensation, such as enhancements additional to any minimisation or remediation undertaken in relation to the adverse effects of the activity.*

**16 Leakage**

*The design and implementation avoid displacing activities or environmental factors that are harmful to cultural heritage in other locations.*

**17 Landscape context**

*Cultural heritage redress compensation actions are undertaken—*

*(a) where this will result in the best heritage outcome, preferably close to the impact site or within the same district; and*

*(b) where the landscape context is considered for both the impact site and the offset site.*

**18 Long-term outcomes**

*Cultural heritage redress is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity.*

**19 Time lags**

*The delay between loss of cultural heritage at the impact site and enhancement at the redress site is minimised.*

**20 Trading up**

*If trading up forms part of cultural heritage redress, the proposal demonstrates that the cultural heritage values enhanced are greater than those lost. The proposal also shows that the values lost are not considered vulnerable or irreplaceable.*

**21 Financial contributions**

*Financial contributions are only considered when there is no effective option for delivering cultural heritage enhancements. Any contributions related to the cultural heritage impacts must be directly linked to an intended cultural heritage enhancement or benefit.*

**22 Conservation principles and mātauranga Māori**

*The design and implementation of cultural heritage redress is a documented process informed by heritage conservation principles and mātauranga Māori (where available).*

**23 Stakeholder participation**

*Opportunity for the effective and early participation of stakeholders is demonstrated when planning cultural heritage redress, including its evaluation, selection, design, implementation, and monitoring.*

**24 Transparency**

*The design and implementation of a cultural heritage offset, and communication of its results to the public, is undertaken in a transparent and timely manner.*

**Decision Sought**

21. Reject the Urban Planning proposed in the RPS Change and produce a cultural heritage inventory of sites lost within the NZ Heritage Authority process

22. Hear a Revised Plan Change with advice from relevant cultural heritage expert witness(es) on both heritage loss in the Region within proposed urban expansion and the respective remaining cultural heritage features.
23. Include an immediate Net Enhancement and Financial Contribution for any loss of cultural heritage from any urban development activities. For instance a loss of a village must be compensated with a new village which could equate to the financial contributions to hapu to enable them to build on their land. Therefore Council obtains the resource capital for this loss and places it into the much needed infrastructure and support for the development of housing on Maori land. Tauranga City Council after all is developing its policies to enable housing.
24. Resource the required iwi and hapu spatial planning requirements to participate, advise and inform BOP Regional Council.
25. The RPS Plan Change would need to address cultural heritage matters by at least the following:
  - Net Enhancement- how is Urban Planning is to addressing enhancement of net loss of cultural heritage
  - Long Term Outcomes- how is Urban Planning recognise ancestral relationship
  - Stakeholder Participation- planning a cultural heritage offset, including its evaluation, selection, design, implementation, and monitoring.
  - Conservation principles and matauranga Maori- planning cultural heritage redress, including its evaluation, selection, design, implementation, and monitoring.
  - Transparency-ensuring methods and opportunities that those affected including the public and awareness.



## References



Whakatana Eru described some of the Ngai Te Ahi cultivations and mahinga kai in the area. 'From Kakanui to the Mangorewa river the tribes that claimed the hunting and fishing rights were Ngaitiahi and Ngatiawhai.' The cultivations within Kakanui block had been handed down to Pomare from the previous generations. Their ancestors had also caught birds, 'such as Kiwi and Kakapo, which existed within this district then; they also fished eels at this mahinga.'<sup>16</sup> In reply to cross examination, Whakatana Eru described the Ngai Te Ahi cultivations at Te Rimupoka.

Te Rimupoka is close to, or on, the boundary between Waitaha and Ranginui – a little on the Ranginui side of it, and a little South of the Rerenga. It was a mahinga kai in the time of Ngaiteahi and belonged to them – and was planted with potatoes at the time when their pig was killed by the N Rehu. As Henare Ranginui said (on the 11<sup>th</sup>) the pig belonged to Moiri the father of Timoti – and the potato field also.<sup>17</sup>

Whakatana stated that Ngai Te Awhai and Ngai Te Ahi were closely connected, which enabled them to maintain their residence on the land at Waoku. 'N Hei and Ngaiteahi did once have a fight with N Rehu and N te awhai, but outside this block at place called 'Pukepoto'.<sup>18</sup> Ngai Te Ahi, 'Pomare's people', cultivated at Opakapaka and also at Ngawaro, 'not very far from the Rerenga on the road, close to the Hotel, north of the river.'<sup>19</sup> Whakatana stated that there were also other places 'formerly cultivated, or at least places where food was got, of which I know the names', but he had never been to these. 'Tuharere, I have been told, is at the head of the Ngamanawa, on the side next to the road. Kakanui is another upon, cultivated by Pomare's father. I only know one place so named.'<sup>20</sup>

Further evidence of the overlapping customary ownership between Ngai Te Ahi and Ngai Tamarawaho of the inland area (around the Oropi and Taumata blocks) is apparent from a 'dispute' in the 1870s and 1880s, over money owed by the government. In the mid 1870s, before the titles to this area had been investigated by

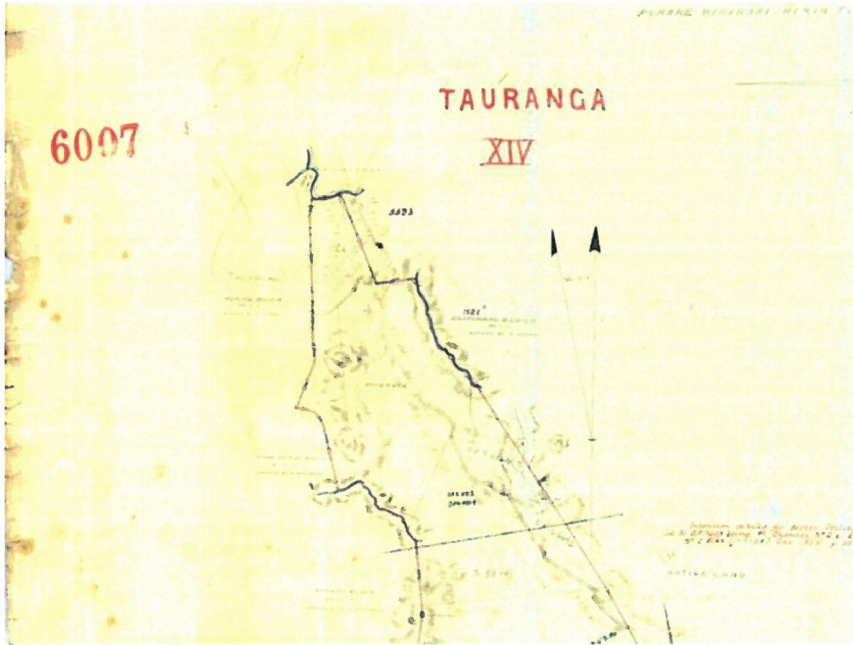


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Ohauti No 2

Done



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Significant Maori Site City... ⌵ Done

