

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

**AND**

**IN THE MATTER** of a submission by **AMBURY PROPERTIES LIMITED** on the **PROPOSED WAIKATO DISTRICT PLAN** pursuant to Clause 6 of Schedule 1 of the Act seeking the rezoning of 178ha of land at Ohinewai

## **STATEMENT OF EVIDENCE OF MATTHEW GAINSFORD**

### **1. INTRODUCTION**

1.1 My name is Matthew Gainsford. I am a consulting archaeologist with W. Gumbley Limited. I have held this position since 2017.

#### **Qualifications and experience**

1.2 I hold a Bachelor of Arts in Archaeology & Ancient History from the University of Auckland University (2000) and a Masters of Maritime Archaeology from Flinders University, Adelaide (2005).

1.3 I have 17 years of experience as an archaeologist. I have undertaken multiple archaeological assessments similar to the assessment undertaken for Ambury Properties Limited ("APL") that span a variety of archaeological landscapes, archaeological periods and sites.

#### **Involvement in project**

1.4 I was engaged by APL to provide archaeological advice in relation to the proposal to rezone the site at Ohinewai ("the Ohinewai Structure Plan Area" or "Site"). I was the project manager for the archaeological assessment, which included conducting fieldwork in the Ohinewai Structure Plan Area. Fieldwork for the archaeological assessment incorporated a visual walkover survey of landform and testing of soil profiles of the higher and lower elevation areas within the Site.

1.5 I am a co-author of the Archaeological Assessment of Effects dated June 2019 which was attached as Appendix N to the Assessment of Environmental Effects and section 32AA Evaluation dated December 2019 provided to the Hearings Panel on 6 December 2019. I last visited the site on 29 May 2019.

**Purpose and scope of evidence**

1.6 The purpose of my statement of evidence is to provide an overview of the historical / archaeological context at Ohinewai and to describe the potential effects of the APL development on archaeological values.

1.7 Specifically, my evidence will:

- (a) Briefly describe the Site and the proposed development (Section 3);
- (b) Describe the legislative and planning framework relevant to heritage effects (Section 4);
- (c) Describe the archaeological assessment undertaken for the Site (Section 5);
- (d) Provide an overview of the Site's historic context (Section 6);
- (e) Set out the results of my assessment (Section 7);
- (f) Set out my recommendations in terms of the management of archaeological features on the Site (Section 8);
- (g) Comment on the Council Officer's Report (Section 9); and
- (h) Provide a brief conclusion (Section 10).

1.8 A summary of my evidence is contained in Section 2.

**Expert Witness Code of Conduct**

1.9 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2014) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my evidence I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. **SUMMARY OF MY EVIDENCE**

- 2.1 In 2019, I conducted an archaeological assessment of the Site. My assessment included a desktop review of relevant historical documentation and a field survey of the entire Site.
- 2.2 The Site is currently being used for pastoral grazing. Based on available historic plans, sources and aerial photographs, the Site was originally in native bush and swamp. Since draining and clearing, there is only evidence of successively more intensive pastoral grazing.
- 2.3 Outside of the Site (within two kilometres) there are 13 recorded archaeological sites. These include a potential pā located south of Tahuna Road bordering Lake Ohinewai. None of these archaeological sites are affected by the proposed development.
- 2.4 No archaeological sites were identified within the Site. Given that my archaeological assessment has been based on surface topography, it is possible that new archaeological sites may be uncovered during earthworks. Nevertheless, I consider that the potential for archaeological sites within the Ohinewai Structure Plan Area is low, based on landform, soil composition and lack of visible archaeological signs.
- 2.5 As for all projects of this nature, I recommend that a precautionary measure should be taken to account for the incidental discovery of archaeological of isolated finds, that is, through application for an archaeological authority at the appropriate time.

3. **THE PROPOSAL**

**The proposal**

- 3.1 APL wishes to develop the site at Lumsden and Tahuna Roads, Ohinewai (Allot 405 Whangamarino PSH, Lot 3 DP 474347, Lot 2 DPS 29288 and Lot 1 DPS 292288) to create a new masterplanned community comprising a large factory for The Comfort Group's ("TCG") operations, supporting industrial and commercial development, residential development and related open space.

**The Site**

- 3.2 The Ohinewai Structure Plan Area is approximately 178ha in size. It is bounded by Tahuna Road in the south, Lumsden Road in the west and Balemi

Road in the north. To the east is Lake Rotokawau and Lake Waikare and to the south Lake Ohinewai.

- 3.3 Most of the proposed development is low lying former swamp comprised of peaty topsoil. A series of ridges originating in the west and south extend into the property.
- 3.4 The Site is currently primarily in pasture and used for pastoral grazing. There is no evidence that any other activities have ever been undertaken on the Site.

#### 4. **RELEVANT LEGISLATIVE AND PLANNING FRAMEWORK**

- 4.1 Archaeology and heritage are governed primarily through two pieces of legislation, being the Heritage New Zealand Pouhere Taonga Act 2014 ("HNZPTA") and the Resource Management Act 1991 ("RMA"). The RMA provisions are then given substance through subordinate planning instruments, in particular (as relevant to my assessment) in the context of APL's rezoning submission, the operative and proposed Waikato District Plan ("ODP" and "PDP").
- 4.2 The relevant provisions from each, which have informed and provided context to my Archaeological Assessment, will be well known to the Hearings Panel. I therefore address them only briefly, as follows.

##### **HNZPTA provisions**

- 4.3 The HNZPTA provides protection for all archaeological sites, whether recorded or not. An "archaeological site" is defined in section 6 of the HNZPTA as:

- "(a) Any place in New Zealand, including any building or structure (or part of a building or structure), that:*
- (i) Was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and*
  - (ii) Provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand..."*

- 4.4 Archaeological sites may not be modified or destroyed, without first obtaining an archaeological authority from Heritage New Zealand Pouhere Taonga.

## Relevant RMA provisions

4.5 The term "historic heritage" is defined in section 2 of the RMA as follows:

- "(a) *Means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*
  - (i) *Archaeological:*
  - (ii) *Architectural:*
  - (iii) *Cultural:*
  - (iv) *Historic:*
  - (v) *Scientific:*
  - (vi) *Technological; and*
- (b) *Includes:*
  - (i) *Historic sites, structures, places, and areas; and*
  - (ii) *Archaeological sites; and*
  - (iii) *Sites of significance to Māori, including wāhi tapu; and*
  - (iv) *Surroundings associated with the natural and physical resources."*

4.6 Section 6(f) of the RMA provides for "the protection of historic heritage from inappropriate subdivision, use, and development" as a matter of national importance, which is required to be recognised and provided for.

4.7 Part 2 of the RMA, including section 6(f), is then implemented through district plans and decisions of resource consents, designations, etc.

## Operative Waikato District Plan

4.8 The relevant provisions of the ODP are set out below.

4.9 Historic Heritage is addressed in Chapter 12 of the ODP. Section 12.1 states:

*"...Some heritage items reflect the rich mining and dairy history in the district, while others provide a valuable insight into the pre-European history of both the Waikato and New Zealand. Several sites reflect Maori and Pakeha involvement in the New Zealand Wars"*

4.10 Section 12 includes the following objective (12.2.1)

*"Historic heritage is retained"*

4.11 The objective is achieved via a series of policies that include the following:

*"...places and areas having heritage value, including architectural, archaeological, cultural, technological, historical, scientific, intrinsic or amenity values, visual appeal or other special character, should be protected from inappropriate subdivision, use and development (12.2.3);*

*Relationships between heritage buildings, sites, structures, places and areas and their surrounds or setting, and views of identified places of historic significance (including redoubts and battlefields) should be maintained (12.2.4).*

*Archaeological sites and areas, sites of significance to Maaori (including waahi tapu sites and waahi tapu areas), and places of historic significance should be protected from adverse effects of development or activities on those sites (12.2.7).*

4.12 The ODP does not identify any historic heritage items on the Site.

### **Proposed Waikato District Plan**

4.13 The relevant provisions of the PDP are set out below. I acknowledge that these are subject to change through the hearing process but nonetheless have considered them as part of my assessment.

4.14 Historic heritage is addressed in Chapter 7 of the PDP. This section includes the following objective (7.1.1):

*"Waikato District Council is a district that acknowledges its past by: recognising, identifying, protecting and promoting heritage"*

4.15 The objective is achieved via a series of policies that include the following:

(a) Identify and schedule historic heritage throughout the district that represent the heritage and cultural themes and activities of the district (7.1.2)

(b) The contribution of historic heritage...is maintained through the protection and conservation of its buildings, sites, structures, places and areas... (7.1.3 (a)).

4.16 The PDP does not identify any historic heritage items on the Site.

## **5. METHODOLOGY**

5.1 As outlined in Section 1 above, I prepared the Archaeological Assessment which was provided to the Hearings Panel in December 2019.

5.2 The methodology adopted for preparing the Archaeological Assessment began with undertaking a desktop review of all publicly available records relating to the Ohinewai Structure Plan Area. This review involved consideration of the following sources:

- (a) Historic aerials (using the Retrolens Historic Imagery Resource);
- (b) Historic plans (using the Quickmap Geographical Information System);
- (c) New Zealand Archaeological Associations database (Archsite);
- (d) Landcare Research;
- (e) Land Information New Zealand; and
- (f) Waikato Regional Council (Waikato Regional Council Rural Aerial Photos 2012-2013 ("WRAPS 2012") and LiDAR 2007).

5.3 I also undertook a review of relevant archaeological reports. One report was identified: an archaeological survey of the Site and surrounding area was undertaken for a proposed opencast and underground coal mine in 1983.<sup>1</sup>

5.4 Together with my colleague, Dennis Green, I conducted a walkover survey on 28 to 29 May 2019. All of the proposed development area was visually inspected, and soils tested with hand-held 50mm auger at certain intervals.

5.5 In addition, my colleague, Warren Gumbley (co-author of the Archaeological Assessment), met with local iwi at Matahuhu Marae on 29 May 2019 to discuss their knowledge of heritage features on the Site and within the general area.

## 6. **HISTORIC CONTEXT**

6.1 In this section, I briefly summarise the historic land use and settlement background to the Ohinewai area and the Site.

6.2 The first survey plans of the area (c. 1866) show that the site was dominated by high ti tree (manuka), flax and multiple areas of swamp. There is no clear indication that the land was being used for any specific purpose at this time.

1 Foster, F 1983. Archaeological Site Survey: Ohinewai coal field. Unpublished Report 1983/9. Historic Places Trust. Auckland.

6.3 Some time between this survey and the first aerial photographs (1940), the land has become a working farm. The first aerial photographs show that the area had been partially drained and was being used for pastoral grazing. In a subsequent aerial photograph (1977), the area had been further drained and was being used more intensively for pastoral grazing.

6.4 There is no evidence that any other activities have been undertaken on the Site.

## 7. **ARCHAEOLOGICAL FEATURES**

7.1 No evidence of pre-1900 archaeology or heritage, or significant 20<sup>th</sup> century heritage was found on the Site, either during historic research or the field survey.

7.2 An archaeological survey for proposed opencast and underground coalmines was undertaken by R. Foster in 1983. The area encompassed by the survey incorporated the area east of Ohinewai, north of Huntly, between the main trunk railway, Lake Waikare and Frost Road. Archaeological sites were identified during the survey (outside the site boundary). These are shown on the plan attached as **Attachment A** and comprise:

(a) Sites S13/64, S13/65, S13/66, S15/67, S15/70, S15/71 and S15/75 which are shell midden sites.

(b) Sites S13/68, S13/69, S13/72 and S13/73 which are pit/terrace sites.

(c) Site S13/74 which is a find spot of an adze.

(d) S13/63 which is a historic flax mill located at the end of Gill Road.

7.3 There is one annotation to an early farm, 'Armitage Farm' on an undated Māori Land Court Plan (ML 13102). However, this is north of the Site and close to the Waikato River. This is not relevant to the Site. There is, however, a surveyed road that leads to the former farm which runs through the Site, which is annotated as 'Road to Armitage Farm'. This is identified on survey plan SO404 (1866). The surveyed road to Armitage Farm may be discovered as a result of earthworks across the Site. If this road was located during earthworks it would have low archaeological significance.

7.4 A potential pā site is located on a ridge to the south of Tahuna Road bordering Lake Ohinewai, outside the Site. This information is based on a personal communication between my colleague, Warren Gumbley, and Tawera Nikau

of Matahuhu Marae. This statement has not been confirmed and it is not currently a recorded archaeological site. No indications of Māori occupation within the Ohinewai Structure Plan Area have been identified.

**8. RECOMMENDATIONS**

8.1 Identification of features on the Site to date has been based on desktop analysis and surface topography. Undertaking analysis of surface topography can be difficult, and the level of confidence of recording sites can vary without associated archaeological information and/or features, for example, shell midden.

8.2 It is possible that subsurface archaeological features and deposits exist within the proposed development area that leave no surface visible trace. However, I consider that the potential for unidentified archaeological deposits is low because soils, landform and historical evidence do not support a high potential for unrecorded archaeological sites.

8.3 Nevertheless as a precautionary measure, I recommend that an archaeological authority is obtained before work commences to allow for any unexpected discoveries.

**9. COMMENT ON MATTERS RAISED IN SECTION 42A REPORT**

9.1 Ms Trenouth's s 42A Report concludes in relation to archaeology and historic heritage:

*"From the information provided I am satisfied that the presence of known or likely archaeological sites do not preclude the development of the APL, OLL or Planning Focus Ltd sites.*

9.2 I agree with that conclusion.

**10. CONCLUSION**

10.1 In my opinion, there are no archaeological or historic heritage impediments to the development of the Ohinewai Structure Plan Area for urban purposes. I therefore consider that, from an archaeological perspective, it would be appropriate for the Hearings Panel to accept APL's submission.

**Matthew Gainsford**  
**9 July 2020**