

**BEFORE THE** Kaipara District Council

**IN THE MATTER** of the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER** of an application for Private Plan Change 83 by THE RISE LIMITED to rezone 56.9 ha of land at Cove Road and Mangawhai Heads Road, Mangawhai from Rural Zone to Residential Zone

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**SUMMARY STATEMENT OF EVIDENCE OF DR. JAMES JUSTIN ROBINSON  
ON BEHALF OF HERITAGE NEW ZEALAND POUHERE TAONGA**

**Submission # 26**

**Dated 27 March 2024**

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## **INTRODUCTION**

1. My full name is Dr. James Justin Robinson. I am an archaeologist and set out my qualifications and experience in my Brief of Evidence dated 12 March 2024.
2. I confirm that I am still complying with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023.
3. The evidence I prepared relates solely to the effects on archaeology arising from the outcomes of the land subject to Plan Change 83 – The Rise (PC83) being rezoned.
4. I disagree with the comments and recommendations of both the Section 42A Report and the planning evidence on behalf of the applicant, in relation to the risks associated with encountering archaeology and the proposed responses to address these levels of risk, i.e., an archaeological authority or an accidental discovery protocol (ADP).

## **SUMMARY OF EVIDENCE DATED 12 MARCH 2024**

### Managing Adverse Effects on Archaeological Values

5. It is my view that the area has not been adequately assessed for archaeological values, including the likelihood of encountering archaeology during the works. As such, I cannot be satisfied that the adverse effects on any archaeology have been considered and appropriately mitigated.
6. With respect to any adverse effects on archaeology arising from the outcomes of PC83, in my view an archaeological assessment rather than an ADP is the most appropriate way of determining if archaeology is present and whether it will be affected by the proposed development.
7. In order to consider the adverse effects on archaeology, I recommend this is managed through a two-step process:
  - i. identifying the potential for encountering archaeology through an archaeological assessment undertaken by a qualified archaeologist, and
  - ii. following the archaeologist's recommendation as to the appropriate mechanism in response to that potential based on the assessment.

### Step 1: Identifying the Potential for Archaeology

8. Where there is potential for archaeology at the location of any proposed works then those works may result in modification of an archaeological site. In this situation, an archaeological assessment by a qualified archaeologist is needed to assess if the proposed works will affect recorded or potential archaeology. If the archaeological assessment confirms there is a risk of site damage, then it will recommend that an archaeological authority be applied for from HNZPT.
9. Only when an archaeological authority is granted can development works commence. Depending on the nature and degree of site damage required, conditions in any such issued authority could include archaeological monitoring, investigation and recording to inform our knowledge and understanding of the social history of the area.
10. The applicant has not commissioned an archaeological assessment of the proposed development. They have examined the NZAA database 'ArchSite' and interpreted the lack of recorded archaeology within the development area to represent a lack of archaeology being present.
11. In my view, this is likely due to a lack of survey rather than a lack of sites since there are a number of recorded sites to the north and south of the development area which have been surveyed by a qualified archaeologist
12. As such, I agree with the CEA recommendations<sup>1</sup> that an archaeological assessment is the most appropriate way to address the risks to archaeology and, if recommended by the assessment, provide for mitigation through consideration, monitoring and recording through the HNZPT archaeological authority process.

Step 2: Applying the Appropriate Mechanism in Response to the Archaeological values and potential for encountering same

13. Based on the archaeological assessment described above, it can be determined whether an ADP or an archaeological authority is the appropriate mechanism to be employed. There are differences between the two and they are appropriate in very different circumstances as described below:

### *Accidental Discovery Protocol (ADP)*

14. An ADP is used when a qualified archaeologist considers the chance of finding archaeology in a development area is low. Considering that the development area has not been assessed by an archaeologist and the potential for encountering archaeology I do not consider an ADP to be the appropriate mechanism to use here when the potential effects are not certain. The advocating of an ADP by persons who are not qualified archaeologists is, in my view, speculative.

### *Archaeological Authority*

15. Should the archaeological assessment identify unrecorded archaeology that can't be avoided by the development or consider that unrecorded subsurface may be encountered in the area where earthworks are proposed, then it is my view that a precautionary approach should be followed, and an archaeological authority application be submitted to HNZPT. Should the archaeological authority application be determined in favour of the applicant then conditions issued will include monitoring of development earthworks, and the investigation and recording of any archaeology encountered. Such conditions are standard requirements in respect of an archaeological authority.

### **CONCLUSION**

16. Due to the high potential for unrecorded archaeological sites to be present and that the earthworks associated with this large development may damage or destroy such unrecorded sites, then it is not appropriate to proceed under an ADP – as any discovery would not be an accident. Therefore, in my view any effects on archaeological sites/features should be mitigated through an archaeological assessment by a qualified archaeologist, and the HNZPT archaeological authority process.

**Dr James Robinson**

**26 March 2024**