

**BEFORE AN INDEPENDENT HEARINGS PANEL
OF THE HAMILTON CITY COUNCIL**

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

AND

IN THE MATTER of an application for resource
consent for the redevelopment of the
former Hamilton Hotel building at 170
Victoria Street, Hamilton CBD.

**STATEMENT OF EVIDENCE OF RODNEY EDWARD CLOUGH
ON BEHALF OF THE APPLICANT**

**ARCHAEOLOGY
1 October 2019**

1. QUALIFICATIONS AND EXPERIENCE

1.1 My full name is Rodney Edward Clough. I am the Director of Clough & Associates Ltd, Heritage Consultants.

1.2 I have the following qualifications, experience and professional affiliations relevant to this assessment:

- a) I hold a Doctorate in Archaeology from the University of London and a Master of Arts in Anthropology from the University of Auckland
- b) I am a member of the New Zealand Archaeological Association (**NZAA**) and served on its Council for several years, including as President (2009-2011);
- c) I am a member of the New Zealand Archaeological Association (**NZAA**) and served on its Council for several years, including as President (2009-2011);
- d) I have over 40 years' experience in the field of archaeology, including research, survey, investigation, analysis and report preparation, covering a variety of time periods and geographic locations. Over the last 30 years my work has largely focussed on New Zealand archaeology;
- e) I lectured in archaeology at the University of Auckland for several years (1987-1994) prior to establishing my consultancy, and have continued to carry out joint research projects with the University;
- f) My practice carries out a range of work relating to cultural heritage management, and in particular, archaeological assessments relating to Resource Management Act 1991 (**RMA**) and Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**) requirements, conservation and management plans, survey, inventory and mitigation investigations. This has included hundreds of surveys and heritage assessments throughout New Zealand, but predominantly in the North Island.

1.3 Clough & Associates has been engaged by the Applicant since February 2018. Extensive historic research and site inspection was undertaken for the Waikato Theatre Archaeological Assessment report (Oct 2018). Two subsequent site visits have been

undertaken by Clough & Associates with Heritage NZ to discuss archaeological matters in relation to the submission of an archaeological Authority application, and the Archaeological Assessment report and a draft Archaeological Management Plan (AMP) reviewed by Heritage NZ staff. Amendments were subsequently made to the Archaeological Assessment report to expand the assessment of potential archaeological values on the Project site and the potential effects on those values (Aug 2019). Following the second Heritage NZ site visit an Archaeological Addendum report (Sep 2019) was submitted to Heritage NZ and Council providing additional information on the condition and extent of the scheduled Hua O Te Atua Urupa (A123) area and the extent of 20th century modification over this area.

2. CODE OF CONDUCT

2.1 My qualifications as an expert are set out above. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted material facts known to me that might alter or detract from my evidence.

3. SCOPE OF EVIDENCE

3.1 I have been asked to provide evidence in relation to the actual and potential effects of the Project on archaeological values.

3.2 Clough & Associates Ltd prepared an archaeological assessment report (Oct 2018) for the Project, updated in August 2019, and an additional Archaeological Addendum report (Sept 2019). This statement of evidence should be read in conjunction with these two reports. I have read the submissions received on the application and the Council Report.

3.3 My evidence will address the following aspects of the resource consent, which are within my area of expertise:

- a) The existing environment, in terms of physical archaeology remains and their archaeological value;
- b) Potential effects on archaeological remains;

- c) Comments on the Hamilton City Council Staff Report;
- d) Consideration of submissions; and
- e) Conclusion.

4. SUMMARY OF EVIDENCE

4.1 The Project comprises the development of a new theatre complex called the Waikato Regional Theatre at 170 and 198 Victoria Street in Hamilton (the **Project site**). The theatre complex will comprise a 1,300-seat flexible lyric theatre constructed over split levels, with a garden area, and it will include a new hotel located on the Victoria Street frontage and an art gallery.

4.2 There are no recorded archaeological sites within the Project site and no archaeological remains or features were identified during background historic research or archaeological site inspection. However, two items scheduled in the Hamilton City Operative District Plan 2017 are located on the Project site:

- a) A Schedule 8A Category A recorded built heritage site located on the Victoria Street frontage (Hamilton Hotel H36 - built in the 1920s it is the third Hamilton Hotel)¹; and
- b) A Schedule 8C Group 2 cultural site (Hua O Te Atua Urupa A123).

4.3 The Project site has a long history, being located in an area used by Māori in relation to Kirikiriroa Pā and possibly earlier times; and being the site of the first Hamilton Hotel in 1865 and then successive hotels. The Project site was also the location of numerous buildings and businesses from the mid-19th century on the Victoria Street frontage.

4.4 However, the Project site has been highly modified by 20th century construction relating to re-building the hotels after fires and other buildings and structures; as well as landscaping/terracing, gardening and other related activities. There has also been loss of land (reportedly up to 40m) along the Waikato River edge through historic flooding.

¹ The effects of the development on the built heritage values of the Hamilton Hotel have been assessed by a conservation architect in a separate report and are not dealt with in this evidence

The large scale modification of the Project site evidenced from documentary research and confirmed during the field inspection, means there is only a low to moderate potential for uncovering previously unrecorded archaeological remains associated with pre-European Māori occupation and early European domestic residence and commercial activity.

4.5 The design of the proposed Waikato Theatre has considered the location of the scheduled Hua O Te Atua Urupa (A123) and the building and required earthworks have been pulled back as far west as reasonably possible to avoid this area. A small area of proposed earthworks is located within the heavily modified western side of the scheduled Urupa area where there is only low-nil potential for any archaeological deposits or features. Only vegetation clearance and six piles within the eastern extent of the scheduled Urupa area will be required to support an open courtyard deck and an access ramp, which has also seen considerable development, terracing and landscaping from the 1920's associated with the third Hamilton Hotel and gardens. Therefore, there is considered to be only a low-moderate potential for any archaeological deposits or features in this area and these are more likely to relate to more recent European occupation of the property.

4.6 Potential archaeological values of the scheduled area of Hua O Te Atua Urupa will have been compromised by the extent and depth of 20th century ground disturbance and development across this area. Any effects on archaeological values within the scheduled area of Hua O Te Atua Urupa should be minor overall given the assessed low potential for in-situ archaeological remains and the small extent of the scheduled area actually impacted on by the proposed activity.

4.7 The recovery of information through the archaeological recording and investigation of any in situ archaeological remains will mitigate any loss of archaeological information.

5. RELEVANT FACTS AND CONTEXT

5.1 I have relied on the description of the Project set out in the Application and the evidence of Mr. David Pugh (Jasmax). However, in terms of my evidence the key aspect of the Project is that it has been designed to minimise its footprint within the area of the scheduled Urupa.

6. THE EXISTING ENVIRONMENT - ARCHAEOLOGY

- 6.1** The Project site is located in the heart of central Hamilton on the banks of the Waikato River, in an area of rich Māori and early European history. From its use by pre-European Māori and the associated occupation of Kirikiriroa Pā, to the establishment of Hamilton's earliest hotel in 1865, which included various stables, cottages, gardens and a bathhouse. A second hotel was built in 1899 following a fire that destroyed the first hotel and cottage; and a third hotel was constructed in 1923 following another devastating fire. The Project site was also the site of numerous buildings and businesses from the mid-19th century on the Victoria Street frontage.
- 6.2** Hamilton City, formerly known as Kirikiriroa, has a rich archaeological record well documented through the archaeological remains of pre-European Māori settlement and European settlement from the mid-19th century. The Waikato River playing a key role, with its tributaries and wetlands providing many resources for Māori. There are numerous recorded archaeological sites, of both Māori and early European origin, in the vicinity of the Project site.
- 6.3** Extensive background research and archaeological site inspection described in the archaeological assessment report (Clough Aug 2019) did not identify any archaeological remains on the Project site.
- 6.4** There is one Schedule 8A Category A recorded built heritage site (Hamilton Hotel H36); and one Schedule 8C Group 2 cultural site (Hua O Te Atua Urupa A123) located within the Project site. There is some discrepancy between the described location of Hua O Te Atua Urupa in a previous HCC report (Foster 2000) and the scheduled location of the Urupa in the District Plan.
- 6.5** Historic research (Clough Aug 2019) established that human bones relating to three individuals were reportedly found and removed in 1889 during earthworks for Harper's Store, located on former Allotment 52 (198 Victoria Street) within the Project site, albeit not within the scheduled Urupa area in the District Plan.

Assessment of Archaeological Values (Clough Aug 2019)

- 6.6** There are no identified archaeological deposits or features on the Project site. However, there is some archaeological potential despite the property having been highly modified by 20th century construction and landscaping and therefore, some potential archaeological values. This potential relates to the Māori occupation of the area and the scheduled Urupa, as well as the European history from the mid-19th century relating to the Hamilton Hotel and numerous buildings and businesses from the mid-19th century on the Victoria Street frontage.
- 6.7** The Project site is part of a wider archaeological landscape associated with Māori occupation and gardening along the Waikato River terraces. Principally associated with the occupation of Kirikiriroa Pā, which was situated between what is now London and Bryce Streets. Characteristic archaeological features associated with Māori gardening within the Waikato include modified soils, planting hollows, basins, sheet mulch, borrow pits, storage pits including rua, bin pits, and patches of charcoal. These are not rare site types within the Waikato District and not of unique archaeological or historic value. If uncovered within the Project site they would provide little information potential beyond what has already been recorded elsewhere by extensive research and investigation of Māori modified soils and borrow pits along the Waikato River.
- 6.8** Urupa, or burial grounds, were also present at sites along the Waikato River. It was the custom for the remains of people who died to be deposited in urupa close to the pā, or within naturally formed caves in the banks of the river. Māori history recalls that bones were removed from the urupa and relocated to other places. During the development of Hamilton City many of the traditional burial sites were destroyed by house or building construction.
- 6.9** Human remains (koiwi tangata) of Māori origin are of special cultural significance to iwi, hapū and whānau. Historic records state that koiwi tangata were reportedly found and removed in 1889 from former Allotment 52 (198 Victoria Street) within the Project site, albeit not within the scheduled Urupa area.
- 6.10** Potential archaeological values of the scheduled area of Hua O Te Atua Urupa will have been compromised by the extent and depth of 20th century ground disturbance and development across this area. Any effects on the archaeological values of the scheduled

Urupa area should be minor overall given the assessed low potential for in situ archaeological remains and the small extent of the scheduled area actually impacted on by the proposed activity, particularly within its western extent (Clough Sep 2019).

- 6.11** The large scale modification of the Project site suggests that it is unlikely that any remains of the original ground surface and evidence of earlier 19th century archaeological features/structures associated with the first Hamilton Hotel, auxiliary buildings and commercial development along Victoria Street will be found over the western extent of the site. However, remnant deep features such as wells and rubbish pits could be uncovered, albeit in a heavily truncated condition.
- 6.12** The eastern extent of the Project site adjacent to the Waikato River edge has also seen considerable development, terracing and landscaping from the 1920's associated with the third Hamilton Hotel and gardens, and the development of the 'orange cottage/house' (originally built 1925). However, parts of the area within former Allotment 52 in particular may in fact be moderately intact, and thus there is a moderate potential for the survival of archaeological deposits and features e.g. 19th century former garden beds and landscape features, structural foundations, the former spring, rubbish pits containing 19th century artefacts remains of historic domestic residence and commercial activity.
- 6.13** The surviving extent and condition of any archaeological remains and their ability to provide information through archaeological investigation is likely to have been severely compromised by 20th century modification and, therefore, of reduced archaeological value. However, archaeological recording and investigation of these features and any artefactual material could contribute further to our understanding of the 19th century European history of the site, currently provided by documentary evidence alone.
- 6.14** Contingent on the condition and content of any surviving archaeological deposits or features associated with the pre-1900 Hamilton Hotel and commercial shops the Project site has the potential to expand our knowledge about early hotels and commercial activity in Hamilton, and the services they provided. The Project site also has potential amenity or education value through interpretation about the history of the property and any archaeological investigation results.

7. EFFECTS ON ARCHAEOLOGY

Hua O Te Atua Urupa

- 7.1** The Council district plan maps are not to scale and there is no available survey information for the boundaries of the scheduled Hua O Te Atua Urupa (A123) area therefore, they are only indicative (Clough Sept 2019).
- 7.2** The design of the proposed Waikato Theatre has considered the location of the scheduled Urupa area and the building and required earthworks have been pulled back as far west as reasonably possible to avoid this area. The courtyard deck has been redesigned to create a large void in the deck around an existing tree and to avoid a significant portion of the Urupa. Therefore, the majority of the scheduled Urupa area will not undergo any earthworks.
- 7.3** A small area extending approximately 9 x 9m within the mapped boundary of the scheduled Urupa area will undergo cut earthworks for the sub-stage area. There will also be some sub-soil drains required at the perimeter of the building and a storm water manhole at the southern boundary of the Urupa. This is within the western side of the scheduled Urupa area that has been so heavily modified by previous earthworks to create a level terrace and install a wastewater pipe that there is only low-nil potential for any archaeological deposits or features being located in this area, other than very deep archaeological features, such as a well relating to the historic occupation of the site as a hotel (Clough Sept 2019).
- 7.4** As noted above, the eastern extent of the property adjacent to the Waikato River edge has also seen considerable development, terracing and landscaping from the 1920's associated with the third Hamilton Hotel and gardens. Therefore, there is considered to be only a low-moderate potential for any archaeological deposits or features in this area and these are more likely to relate to historic European occupation of the property. This is the main area within the Project site where Hua O Te Atua Urupa is recorded on the District Plan schedule. Only vegetation clearance and six piles on the northern and southern edge of the scheduled Urupa area will be required to support the open courtyard deck and an access ramp (Clough Sept 2019).

7.5 Any potential effects on archaeological values within the scheduled area of Hua O Te Atua Urupa should be minor overall given the assessed low potential for in-situ archaeological remains and the small extent of the scheduled area actually impacted on by the proposed activity. The recovery of information through the archaeological investigation of any in-situ archaeological remains will mitigate any loss of archaeological information. The remaining area of the scheduled Urupa and any other in-situ archaeological remains and information will not be affected by the proposed activity and will be preserved (Clough Sept 2019).

Other Archaeological Remains

7.6 The effects to archaeological values associated with the pre-1900 Hamilton Hotel and auxiliary buildings, and the pre-1900 commercial shops on previous Allotment 52 are difficult to predict because of the extensive modification to the Project property during the 20th century; and any archaeological deposits, if they exist, are buried.

7.7 The large amount of modification of the ground following the complete rebuild of the hotel in 1898/99 and 1922/23 means it is unlikely that any remains of the original ground surface and earlier 19th century archaeological features/structures will have survived and be affected under the south-western corner of the existing Hamilton Hotel (Clough Aug 2019).

7.8 The central part of the Project site is a large, artificially levelled terrace formed to create a carpark, driveway and building platform behind the Hamilton Hotel. This area is so heavily modified by previous earthworks cutting down by up to 2m to create a level terrace and install services that there is only a low-nil potential for any archaeological deposits or features to be located in this area. These deposits would have to be remnants remains of very deep archaeological features, such as a well relating to the historic occupation of the site as a hotel, that would survive albeit in a heavily truncated condition (Clough Aug 2019).

7.9 The riverside (eastern) part of the Project site is still in overgrown garden that has been terraced and landscaped in modern times as part of the construction of the second (1899-1920s) and third Hamilton Hotel (1920-). A former spring, bathhouse and concrete waterfall were constructed in this area during the late 19th century. There is considered to be a low-moderate potential for archaeological deposits or features in this area and

these are more likely to relate to this more recent European occupation of the property. Evidence may include historic gardens / landscape features and rubbish pits associated with the occupation of the earlier Hamilton Hotels or debris from earlier hotel buildings destroyed by fire and buried on site (Clough Aug 2019).

Recommended Mitigation of Effects

- 7.10** The remaining area of the scheduled Hua O Te Atua Urupa (A123) area will not be affected by the proposed activity and will be preserved.
- 7.11** An application for an archaeological Authority will be made to Heritage New Zealand under Section 44(a) of the HNZPTA prior to the start of earthworks. This would establish appropriate conditions and procedures for the management of any archaeological remains discovered. The recovery of information through the archaeological investigation of any in situ archaeological remains, whether Māori or early European in origin, will mitigate any loss of archaeological information.
- 7.12** The dissemination of information recovered from any archaeological remains discovered to the public.
- 7.13** The erection of interpretation panels and design features to provide public information about both the Māori and early European history of the Waikato Regional Theatre site at the Waikato Theatre site.

8. COMMENTS ON THE COUNCIL STAFF REPORT

- 8.1** I have read the Council Technical Specialist Report – Archaeology, prepared by Dr Alexy Simmons (August 2019). Dr Simmons' concludes that the development of the Project site is not constrained by the archaeological remains on the site. However, the application required additional information or responses to policies relating to the management and regulation of archaeological sites; and inconsistencies between the AEE and Archaeological Assessment and Assessment of Māori Values. Dr Simmons'

report is based on the original assessment report of Oct 2018. Further details were requested on these issues and provided by the applicant:

- 8.2** Subsequent amendments were made to the archaeological assessment report to expand the assessment of archaeological values and the effects of the proposed activity on those values (Aug 2019). This information has been summarised above in this evidence.
- 8.3** An additional archaeological addendum report (Sep 2019) has been prepared to provide further information around the archaeological values, condition and previous 20th century development and modification over the scheduled area of Hua O Te Atua Urupa (A123) and provided to Council. This information has been summarised above in this evidence.
- 8.4** An archaeological Authority has been applied for under Section 44(a) of the HNZPTA as a precaution prior to the start of any works in site. The methodology and protocols around the recording, investigation and recovery of any in-situ archaeological remains found have been outlined in an Archaeological Management Plan (AMP) provided with the HNZ Authority application.
- 8.5** I concur with the recommended consent conditions provided by Dr Simmons.

9. CONSIDERATION OF SUBMISSIONS

- 9.1** I have read the summary of submissions received and have identified that Submission 13, 18, and 27 relate to archaeological matters, which I will address.
- 9.2** Submission 13: Waikato Heritage Group opposes the application and have requested a survey of the garden before it is destroyed, recording the position of terraces, all circulation patterns and enclosure boundaries location and materials and evidence of the natural spring of ornamental waterfall and bath, greenhouse position and other garden elements. In response, as part of the archaeological monitoring, recording and investigation required all elements of the 19th century and early 20th century garden features and structures will be recorded.
- 9.3** Submission 18: Te Huaruru Rohe Wakaminenga of the Confederation of the United Tribes opposes the application as they have not been consulted about the desecration of an urupa being a breach of tikanga, native customary title and treaty rights. This is a cultural and consultation issue and not an archaeological matter.

9.4 Submission 27: Heritage NZ opposes the application because there are adverse effects on archaeological heritage sites and the archaeological assessment is insufficient in terms of detail, with the effects of the proposed works unclear. I do not agree. Moreover, additional detail has been provided to Heritage NZ in the amended Archaeological Assessment report (Aug 2019) and Archaeological Addendum report (Sep 2019) on the assessment of archaeological values and potential effects on those values. An archaeological Authority has been applied for under Section 44(a) of the HNZPTA as a precaution prior to the start of any works on site. An Archaeological Management Plan (AMP) has been provided with the HNZ Authority application outlining the methodology and protocols around the recording, investigation and recovery of any in situ archaeological remains found.

10. CONCLUSION

10.1 There are no recorded archaeological sites within the Project site and no archaeological remains or features were identified during background historic research or archaeological site inspection.

10.2 The Project site has been highly modified by 20th century construction relating to rebuilding the hotels after fires and other buildings and structures; as well as landscaping/terracing, gardening and other related activities. The large scale modification of the Project site evidenced from documentary research and confirmed during the field inspection, means there is only a low to moderate potential for uncovering previously unrecorded archaeological remains associated with pre-European Māori occupation and early European domestic residence and commercial activity.

10.3 The design of the proposed Waikato Theatre has considered the location of the scheduled Hua O Te Atua Urupa (A123) and the building and required earthworks have been pulled back as far west as reasonably possible to avoid this area.

10.4 Potential archaeological values of the scheduled area of Hua O Te Atua Urupa will have been compromised by the extent and depth of 20th century ground disturbance and development across this area. Any effects on archaeological values within the scheduled area of Hua O Te Atua Urupa should be minor overall given the assessed low – moderate potential for in-situ archaeological remains and the small extent of the scheduled area

actually impacted on by the proposed activity. Any archaeological deposits or features in this area are more likely to relate to recent European occupation of the property.

- 10.5** The recovery of information through the archaeological recording and investigation of any in situ archaeological remains will mitigate any loss of archaeological information.
- 10.6** Based on both historical sources and site inspection I consider that the overall effects will be no more than minor and that the project can be supported from an archaeological perspective.

Rodney Edward Clough

1 October 2019