



Beachside Holiday Park – slip remediation

Cultural Monitoring of Earthworks Protocol

1. **Background**

Tauranga City Council often undertakes public works within Tauranga Moana which involve the movement or extraction of earth. It is acknowledged that earthworks have the potential to disturb culturally significant sites and that Tangata Whenua may be affected. For this reason this protocol provides clarity around how the earthworks component of specific projects will be handled.

1.1 **Purpose of Protocol**

The purpose of this Protocol is to enable the procedures for communication, consultation and the measures which will be implemented for earthwork on the (project name).

1.2 **Duration of Protocol**

This Protocol will be reviewed as appropriate on the initiation and agreement of the parties to the protocol.

1.3 **Archaeological and Notable Object Finds**

If any archaeological sites are uncovered, the specified procedures outlined in section 5 of this Protocol shall be followed which involve both legal and cultural considerations.

If any archaeological materials discovered predate 1900, then the site is an archaeological site in terms of the Heritage New Zealand Pouhere Taonga Act 2014 and the relevant provisions of that Act will apply. The site, and the features contained within them, will be treated in accordance with the conditions of the relevant Heritage NZ authority to disturb, modify or destroy the site. If no such authority exists at the time of the discovery, then one shall be obtained before the site is further modified.

If Notable Objects are found the specific procedures outlined in 5.3 and 5.4 of this protocol will be followed.

1.4 Health and Safety

It is the responsibility of the iwi/hapu to provide health and safety equipment for the earthworks monitors and ensure they have the appropriate training.

It is the contractor's responsibility to ensure that the monitors receive site-specific health and safety induction and ongoing training.

It is the monitor's responsibility to comply with all health and safety requirements

1.5 Communication

Any public communication (especially via media) can only go through the Council Communications department. The iwi/hapu and Council staff will approve the content of any statement before it is released.

2. Key Personnel,

See Appendix 1 for contact details.

2.1 Hapu/Iwi Representatives

The Hapu/Iwi will provide Council with the names, mailing addresses, contact phone numbers and if possible email addresses of the representative(s) who will represent the Hapu/Iwi.

2.2 Council Representatives

The Council will provide the Hapu/Iwi with the names, mailing addresses, contact phone numbers and email addresses of its representative(s).

If Council chooses to engage a consultant to manage the project, the contact details of the consultant's representative will also be provided to the Hapu/Iwi.

2.3 Hapu/Iwi Monitors

Hapu/Iwi monitors will work on behalf of the Hapu/Iwi. The monitors will also work closely with the nominated archaeologist. Hapu/Iwi monitors do not represent the Hapu/Iwi view or position on site, but are there as monitors only.

Prior to undertaking earthwork monitoring, the Hapu/Iwi representatives will advise the Council representatives of the names and contact details of the Hapu/Iwi monitors who will monitor the earthworks.

The monitors appointed by an Hapu/Iwi must be an individual who has been trained in Cultural earthworks monitoring.

A maximum of 1 earthworks monitor per workplace will be paid for by Council.

If one site is involved and more than one iwi/hapu is affected, the iwi/hapu must agree who the monitor/s will be. It is not up to Council to decide. The Earthworks Monitoring Protocol will be between TCC and all the affected iwi/hapu – when the hapu groups decide who the monitor/s will be they must notify the project manager within the agreed timeframe. If the iwi/hapu do not notify Council within the timeframes, earthworks will continue without earthworks monitors.

Earthworks monitors should be on site at the agreed dates and times. If monitors are not present, works will continue.

2.4 Project Archaeologist

The Council will engage a suitably qualified archaeologist to work on the project. Before engagement, Council will consult with the Hapu/Iwi representatives as to the suitability of the Project Archaeologist. If an authority exists Council will ensure the archaeologist is approved by Heritage NZ.

2.5 Meeting Venues

Where practicable, meeting venues and meeting times shall be mutually acceptable.

3. Preconstruction Consultation and Communication

3.1 Consultation

Council or Council's consultants will consult with the nominated representatives of the Hapu/Iwi regarding the Project including significant project issues, construction techniques and any resource consents.

3.2 Cultural Impact Assessments

Should the project require approval under the Heritage New Zealand Pouhere Taonga Act 2014 or Resource Consent be required, or should Council decide that further clarity is required about the site, Council may engage the Hapu/Iwi to undertake a Cultural Impact Assessment (CIA). The scope, fee and authors of the CIA will be negotiated and agreed prior to any formal engagement by Council of the Iwi/Hapu. If the Hapu/Iwi requires external professional advice to complete the CIA then this matter should be included in the negotiations.

3.3 Areas of Special Interest

Prior to commencing earthworks, a plan shall be prepared by Council in consultation with the Hapu/Iwi and the Project Archaeologist showing Areas of Special Interest.

Areas of Special Interest are areas on (project name) are identified on Appendix 3 Map.

3.4 Communication

For the term of this Protocol, both the nominated representatives of the Hapu/Iwi and Council should be satisfied that there is adequate communication to keep each group adequately informed. If either party considers that there needs to be further consultation, they will advise the other party of this need.

4 Earthworks Monitoring

4.1 General

The level of earthworks monitoring undertaken by the Hapu/Iwi will reflect the risk of uncovering an archaeological find. Areas of Special Interest will require a more intensive level of monitoring requirement, whereas deep excavations in low risk areas will only need a low level of monitoring. The frequency and duration of the earthworks monitoring will be determined by agreement between the Hapu/Iwi representatives and the Council representatives.

4.2 Monitoring “Areas of Special Interest”

Excavation procedures in “Areas of Special Interest” will be defined through consultation with Hapu/Iwi representatives, Council representatives and the Project Archaeologist.

This may result in skimming the surface layer of vegetation and topsoil to a depth adequate to identify any archaeological features.

The nominated archaeologist may also be required to monitor any excavations in accordance with any authority issued from the Heritage NZ.

4.3. Whakanoa¹

Before earthworks commence in sensitive areas, Kaumatua from the Hapu/Iwi will be invited to carry out a whakanoa ceremony for the removal of tapu. The Hapu/Iwi may request food is taken following the whakanoa ceremony to complete the process. If requested Council will be responsible for providing the catering and will work together with the Hapu/Iwi representatives to ensure correct procedures are followed.

The Hapu/Iwi may also request a whakanoa ceremony should koiwi or any significant archaeological discovery be uncovered.

4.4 Attendance by Hapu/Iwi Monitors

Council will ensure that reasonable notice is given at the commencement of any excavation. The Hapu/Iwi will be responsible for the attendance of the Hapu/Iwi monitors. At the discretion of the Hapu/Iwi monitors they maybe on call.

The Hapu/Iwi monitors are to record daily their start and finish times when they were on site, and a written record of what was observed. This information is to be summarised and included with any claim for payment.

¹Whakanoa – free from tapu, make ordinary. (Ref. Reed Dictionary of Modern Maori)

5 Discovery or Finds

5.1 Action for discovery

Immediately following discovery of any tangata koiwi or artefacts, the contractor will cease all excavation;

- In that “Area of Special Interest”, or
- within “the immediate vicinity” of the find

5.2 Securing a Find Site “the immediate vicinity”

Should a find be unearthed, the find site and “the immediate vicinity” around the discovery shall be made secure. The area of “the immediate vicinity” will be defined by the Project Archaeologist or the Heritage NZ and will include any area considered to have a high probability of containing archaeological features similar to those found at the discovery site, and that warrant careful investigation; and/or “the immediate vicinity” shall include an area the contractor determines is necessary as a safety buffer zone separating those investigating or retrieving archaeological features or material, and those carrying out other construction activities, so as to provide an acceptable level of safety to all persons, and to the features or materials. The contractor will then take steps to make safe and secure the discovery area including using stakes and tape to restrict access to the find site.

To improve security of the find, or access to the find, the Engineers’ representative will instruct the contractor will assist with any reasonable requests made by the Project Archaeologist, or the Hapu/Iwi representative or Council’s representative.

All archaeological information will be recorded by the Project Archaeologist in accordance with the Heritage New Zealand Pouhere Taonga Act 2014. A copy of the Report to be given to the (project manager) within 6 - 12 months (depending on the scale of the project) of Project completion and within 2 months a summary of the Report be presented to the (project name) Steering Group by the Project Archaeologist

5.3 Discovery of koiwi.

5.3.1 If skeletal remains (koiwi tangata) are uncovered, then the site is an archaeological site in terms of the Heritage New Zealand Pouhere Taonga Act 2014 and the relevant provisions of that Act will apply. The site, and the features and human skeletal remains (koiwi tangata) contained within them, will be treated in accordance with the conditions of the relevant Heritage NZ authority to disturb, modify or destroy the site. If no such authority exists at the time of the discovery, Heritage NZ will be contacted for advice on how to proceed.

5.3.2 The contractor shall immediately advise the Engineers’ representative who will immediately advise;

- The Engineer to the Contract.
- The Council representative
- The Project Archaeologist.
- The Hapu/Iwi representatives.
- The Heritage NZ
- Ministry of Health – It is a requirement under Section 51 of the Burial Cremation Act 1964 to apply for a Disinterment Licence
- The New Zealand Police, Maori Liaison – *This is a requirement of section 14 Coroners Act 2006. The Police will report the finding to the nearest Coroner in accordance with section 20 of the Coroners Act 2006.*

The Coroner has the authority under section 20 of the Coroners Act 2006 to “give any directions the Coroner thinks fit about removal of a

Objective ID: A113151

body”. Section 42 of the Coroners Act 2006 empowers the Coroner to release the body to family members.

- 5.3.3** Within 4 hours of notice being given by the Council to the nominated Hapu/Iwi representatives of human skeletal remains (koiwi tangata) having been discovered, Hapu/Iwi members, whanau and any other excavation monitoring teams present on the construction site will assemble at the discovery site.

The Hapu/Iwi will carry out the appropriate cultural ceremonies at the site.

Once these ceremonies are completed, the Project Archaeologist, in consultation with the Police and the Hapu/Iwi will first inspect the skeletal remains to determine their likely age and then recover them.

The Police and/or the Coroner will be responsible for any remains that they take for testing. The Hapu/Iwi will liaise directly with the Police and/or Coroner regarding what will happen to the remains once any pathology tests are completed.

Provided there are no conditions in the relevant NZHPT authority to the contrary, and that the Police and the Coroner have no objection, the Hapu/Iwi will determine what will happen to the skeletal remains and where they will be reburied, should they wish to do so. One of the Hapu/Iwi representatives will communicate their decision to Council’s representative.

The Project Archaeologist will record details of the koiwi burial only if the Hapu/Iwi wishes this to occur. Any records made will be held in accordance with the wishes of the Hapu/Iwi.

- 5.3.4** Consideration should be given to leaving the koiwi tangata *in situ* and altering the work plans as appropriate. The decision will be made by Council, Kaumatua and the Archaeologist.
- 5.3.5** Should the koiwi Tangata be removed from the worksite, the above group will determine the most appropriate reburial either on (project name) or on another agreed site.
- 5.3.6** A Rahui will prevail between the time of the initial discovery of human remains and 24 hours after the remains have been removed – either by the Police or by the Hapu/Iwi. During this time all excavation of the “Area of Special Interest” will cease, unless the nominated representatives of the Hapu/Iwi advises otherwise.
- 5.3.7** In the unlikely event that the Hapu/Iwi does not respond to the notice of the discovery within 24 hours, the Council may proceed with the investigation, recovery and reburial of the remains in consultation with; the Project Archaeologist, the Coroner, the Police, and the Heritage NZ. In these circumstances, excavation of areas of special interest may resume once the remains have been removed from the site.
- 5.3.8** All archaeological information will be recorded by the Project Archaeologist in accordance with the Heritage New Zealand Pouhere Taonga Act 2014.

5.4 Discovery of Artefacts.

5.4.1 The contractor shall immediately advise the Engineers' representative of any find who will immediately advise;

- The Engineer to the Contract.
- The Council representative
- The Project Archaeologist.
- The Hapu/Iwi representatives.
- The Heritage NZ

5.4.2 Work in the immediate vicinity of the find may resume once any required archaeological monitoring and retrieval is completed, and the Project Archaeologist monitoring the site has approved the resumption of work.

5.4.3 Initially, the Project Archaeologist will have control of, and responsibility for, any artefacts recovered from the site. The Protected Objects Act 1975 details the procedures relating to determining ownership of any taonga tuturu discovered.

Guidelines for these procedures can be found at;

<http://www.mch.govt.nz/protected-objects/Guidelines-for-Taonga-Tuturu-011106.pdf>

5.4.4 The Project Archaeologist will record the archaeological materials and any artefacts and will notify the Secretary for Internal Affairs on the prescribed form of the finding of any artefacts within 28 days of the completion of the fieldwork.

5.4.5 In the event of the discovery of taonga tuturu, the Tauranga Heritage Collection is the legal repository for the region in regards to fulfilling the requirements of the New Zealand Protected Objects Act 1975, under the Ministry of Culture and Heritage.

This responsibility requires the Tauranga Heritage Collection to store and maintain newly found items recovered from controlled excavation and fieldwork throughout the sub-region on behalf of the Ministry until such time that the Ministry has been able to determine custodianship.

6 Fees and Payments

6.1 Ceremonies, Whakanoa and Blessings

There will be no payment for attendance by the Hapu/Iwi. In some circumstances, a koha may be appropriate. (Refer Council's Koha Policy) Council will provide catering.

6.2 Hapu/Iwi Monitors

The Hapu/Iwi shall be paid monitoring fees at a rate of \$65.00 per person/per hour whilst on site.

6.3 Hapu/Iwi Representatives / Attendance to Koiwi or Archaeological Finds

In cases where specialist advice may be needed, Council may pay Tangata Whenua representatives at the rate of \$170 per person per day – this is consistent with the rate paid to external representatives by Council.

A maximum of 2 representatives, mandated by the iwi/hapu, may be remunerated at this rate.

6.4 CIA's

The fee for CIA's will be based on Council's Commissioning and Paying for Cultural Impact Assessment / Maori Values Assessments Procedure.

6.5 External Remuneration Policy

In instances where the Council's External Representatives' Remuneration Policy applies, payments will be made under that policy, not this Protocol eg Project Steering Groups.

6.6 Short Form Agreement

Prior to works commencing Council and Iwi/Hapu will sign a Short Form Agreement. (TCC REF 3066333)

6.7 Payment for Services

The cost schedule relates to activity recorded within this Protocol and is exclusive of GST.

Payments will only be made after an official Hapu/Iwi GST Tax Invoice is submitted to Council. There will be no payments made directly to individuals.

The Hapu/Iwi agrees to accept full responsibility for the deduction of all Inland Revenue Department (IRD) payments (taxes and GST), accident compensation levies, and any other work related deductions that may arise from time to time.

Council will provide the Hapu/Iwi with an order number for each project. The number shall be recorded on the GST tax invoice and shall identify the date, type of activity, name(s) of representatives and respective hourly rates.

7 Disputes

The parties to this Protocol agree to informal meetings to discuss matters arising from this Protocol. Given that the protocol is signed in good faith, every attempt will be made by each party to fulfil their responsibilities. However, should a party be unable to fulfil their responsibilities for any reason, this will not give rise to litigation by either party.

Should any dispute relating to this agreement arise that cannot be resolved in discussion, then these matters shall be managed in accordance with TCC's Mediation Policy.

Project Name: Beachside Holiday Park – slip remediation

Date: August 2023

Signatures of Parties

1. Iwi /Hapu – Ngāi Tukairangi

s 7(2)(a) - Privacy

Position – s 7(2)(a) - Privacy

Name – s 7(2)(a) - Privacy

Dated – 23/08/2023

2. Tauranga City Council

Position

Name

Dated

Appendix 1

Project Name Beachside Holiday Park – slip remediation
Date August 2023

Key Personnel Contact details

Tauranga City Council

Position	Name	Address	Phone/Email
Project Manager	s 7(2)(f)(ii)		
Council representative	As above		
Contract Engineer	n/a		

Tangata Whenua

Position	Name	Address	Phone/Email
Kaumatua	n/a		
Hapu/lwi Monitors	s 7(2)(a) - Privacy		
Hapu/lwi representatives on (project name)			

Other Agencies

Position	Name	Address	Phone/Email
Project Archaeologist.	s 7(2)(a) - Privacy		
Heritage NZ			
Ministry of Health			
Police Maori Liaison			

Glossary of Maori Words and Abbreviations

Maori	English
Ariki	Tribal Chieftain
Atea	Courtyard
Haka Powhiri	Welcome dance
Hakari	Feasting
Hapu	Sub Tribe
Hongi	Pressing Noses
Hui	Meeting
Inoi	Prayer
Iwi	Main Tribe
Kai	Food
Karakia	Prayer
Karanga	Call
Kaumatua	Elder
Koha	Gift
Koiwi	Bones
Koiwi Tangata	Human bones
Kuia	Female Elder
Manaaki	Hospitality
Manuhiri / Manuwhiri	Visitors
Marae	Courtyard
Mauao	Mount Maunganui
Mihi	Speech
Oriori	Chant
Paepae	Speaking Platform
Pakeke	Adults
Poroporoaki	Farewell Ceremony
Pohiri / Powhiri	Welcome Ceremony
Rahui	Ban, Temporary Closure
Raupatu	Confiscation of land
Tapu	Sacred
Taonga tuturu	is defined as an object that relates to Maori culture, history, or society; and was, or appears to have been manufactured or modified in New Zealand by Maori; or brought into New Zealand by Maori; or used by Maori; and is more than 50 yrs old.
Tangata Whenua	Host People
Tangihanga	Funeral
Taonga	Treasure

Tikanga	Customs
Tomokanga	Gateway
Tohu	Sign
Tohunga	High Priest—Expert in a given field
Tupuna	Ancestors
Turangawaewae	Standing Place
Waka	Canoe
Wahine	Woman
Waiata	Song
Whakanoa	to left tapu
Whanau	Family
Wero	Challenge
Whakapapa	Family Tree/Lineage
Whaikorero	Oratory
Whakatauaki	Proverb
Whare Kai	Dining Room
Wharenuī	Meeting House
Whare paku	Toilet

Abbreviations

CIA	Cultural Impact Assessment
Council	Tauranga City Council
GIS	Geographical Information System
GST	Good and Services Tax
NZHPT	New Zealand Historic Places Trust

Appendix 3

Project Name Beachside Holiday Park – slip remediation
Date August 2023

Areas of Special Interest