

BEFORE THE HEARING PANEL

**IN THE
MATTER OF**

**The Resource Management Act
1991 (the Act)**

AND

**IN THE
MATTER OF**

**Waikato District Council Proposed
District Plan:
Hearing 14-Historic Heritage and
Notable Trees.**

**STATEMENT OF EVIDENCE OF CAROLYN ANNE MCALLEY FOR AND ON BEHALF OF
HERITAGE NEW ZEALAND POUHERE TAONGA**

7th July 2020

1. INTRODUCTION

- 1.1 My name is Carolyn Anne McAlley. I hold the qualification of a Bachelor of Planning degree (1993) from Auckland University. I have over 20 years planning experience in local and regional government, in consenting, implementation and policy based roles.
- 1.2 I have been employed by Heritage New Zealand Pouhere Taonga (HNZPT) since August 2012, where part of my role includes providing statutory planning advice in relation to proposals under the Resource Management Act, including District Plans, Plan Changes and Resource Consent proposals.
- 1.3 Although this evidence is not prepared for an Environment Court hearing I have read the Environment Court Code of Conduct for Expert Witnesses Practice Note 2014 and have complied with it when preparing this evidence. I confirm that the topics and opinions addressed in this statement are within my area of expertise. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions that I have expressed.

2. SCOPE OF EVIDENCE

- 2.1 HNZPT is New Zealand's lead heritage agency and operates under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). Included as the purpose of the HNZPTA is: *"To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand."* HNZPT meets this purpose in a number of ways, including advocacy and active involvement in Resource Management Act 1991 (RMA) processes for heritage.
- 2.2 HNZPT made a submission and a further submission in relation to the proposed Waikato District Plan.
- 2.3 Today I rely on the expert evidence and feedback of my colleague Robin Byron-HNZPT Senior Conservation Architect on matters related to the Objective, rules and to the scheduling of heritage items.

3 LEGISLATIVE FRAMEWORK

- 3.1 The purpose of the RMA is to *"promote the sustainable management of natural and physical resources"*. Section 5 of the Act states:
"In this Act, sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety."
- 3.2 Section 6(f) of the RMA requires that any proposal *"recognise and provide for... the protection of historic heritage from inappropriate subdivision use and development"*.

3.3 In terms of Part 2 RMA matters, historic heritage is part of the environment. Therefore adverse effects on historic heritage must be avoided, remedied or mitigated (as required by section 5).

3.4 The RMA defines historic heritage as:

(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. HNZPT SUBMISSION and FURTHER SUBMISSION POINTS

4.1 HNZPT made 130 submission points (559.4, 559.5, 559.65, 559.66, 559.67, 559.68, 559.69, 559.70, 559.71, 559.72, 559.73, 559.74, 559.75, 559.76, 559.77, 559.78, 559.79, 559.88, 559.89, 559.90, 559.91, 559.92, 559.93, 559.94, 559.95, 559.96, 559.97, 559.98, 559.99, 559.100, 559.101, 559.102, 559.103, 559.104, 559.105, 559.106, 559.107, 559.108, 559.109, 559.110, 559.111, 559.112, 559.113, 559.114, 559.115, 559.116, 559.117, 559.118, 559.119, 559.120, 559.121, 559.122, 559.123, 559.124, 559.125, 559.126, 559.127, 559.128, 559.129, 559.130, 559.131, 559.132, 559.133, 559.134, 559.135, 559.136, 559.137, 559.138, 559.139, 559.140, 559.141, 559.142, 559.143, 559.144, 559.145, 559.146, 559.215, 559.216, 559.217, 559.218, 559.219, 559.220, 559.221, 559.222, 559.223, 559.224, 559.225, 559.226, 559.227, 559.228, 559.229, 559.230, 559.231, 559.232, 559.233, 559.234, 559.235, 559.236, 559.243, 559.244, 559.245, 559.246, 559.247, 559.248, 559.249, 559.250, 559.251, 559.252, 559.253, 559.254, 559.255, 559.256, 559.257, 559.258, 559.259, 559.276, 559.277, 559.278, 559.279, 559.280, 559.285, 559.289, 559.290, 559.291, 559.292, 559.293, 559.294, 559.295, 559.296, 559.297) related to Waikato District Council Proposed District Plan (the Plan).

4.2 With regard to submission points that have been recommended to be accepted;

559.67, 559.71, 559.72, 559.73, 559.74, 559.77, 559.88, 559.89, 559.90, 559.91, 559.92, 559.93, 559.94, 559.95, 559.96, 559.97, 559.98, 559.99, 559.100, 559.101, 559.102, 559.103, 559.234, 559.104, 559.105, 559.106, 559.107, 559.108, 559.109, 559.110, 559.111, 559.112, 559.121, 559.122, 559.123, 559.124, 559.125, 559.126, 559.127,

559.145, 559.216, 559.217, 559.218, 559.119, 559.223, 559.226, 559.227, 559.228, 559.229, 559.230, 559.231, 559.232, 559.233, 559.235, 559. 246, 559.247, 559.248, 559.249, 559.250, 559.251, 559.252, 559.253, 559.254, 559.255, 559.256, 559.257, 559.258, 559.259, 559.276, 559.277, 559.278, 559.279, 559.291, 559.293, 559.294, 559.295, 559.296, 559.297, I concur with the planner's assessment and recommendations in relation to these submission points with the exception of submission point 144, which is discussed in section 5 of this evidence.

- 4.4 With specific regard to submission and further points (559.227, 559.228, 559.226, FS 1323.134, FS 1323.135, 559.219, 559.231, 559.230, 559.232, 559.236, 559.229), that relate to items for heritage scheduling, I rely on the evidence of HNZPT Conservation Architect Robin Byron to make further comments of support in section 5 of this evidence.
- 4.5 With regard to the submission points recommended to be accepted in part I concur with the planner's assessment and recommendations for the following points:
559.65, 559.114, 559.115, 559.116, 559.117, 559.118, 559.119, 559.120, 559.128, 559.129, 559.130, 559.131, 559.132, 559.133, 559.134, 559.135, 559.136, 559.137, 559.138, 559.139, 559.140, 559.141, 559.142, 559.143, 559.146, 559.243, 559.244, 559.245, 559.289, 559.290, 559.236
- 4.6 With regard to the submission points: 559.4, 559.66, 559.76, 559.285, that have been recommended to be accepted in part only, I disagree with the planner's assessment and recommendations and make a response in section 5 of this evidence.
- 4.7 With regard to the following submission points: 559.5, 559.68, 559.69, 559.292, 559.75, 559.225, 559.224, 559.220, 559.221, 559.222, that have been rejected I concur with the reporting planner assessment and recommendations. In particular with regard to the latter points (559.225, 559.224, 559.220, 559.221, 559.222), that relate to built heritage items, it was after further consideration in consultation with the HNZPT conservation architect and in some instances site visits to the items, that these items were not considered to be suitable to be put forward for scheduling at this time.
- 4.8 With regard to the following submission points 559.70, 559.215, 559.76, 559.78/559.79, 559.113 that have been rejected I make the following comment on 559.70 and the remainder points are discussed in section 5 of this evidence.
- 4.9 I concur with the reporting planner regarding the reasons that submission 559.70 has been rejected where HNZPT sought an addition of wording to policy 7.1.3(c) relating to setting. The reporting planner considers the concerns are already captured in the existing policy framework at 7.1.3(c). I agree, however this agreement is also related to the recommended changes regarding the rules related to works in the setting of a heritage item, and the recommended changes to Policy 7.1.5 Subdivision relating to the retention of the setting at the time of subdivision. These combined changes will

minimize the likelihood of adverse effects on heritage items at the time of development, building and subdivision on the subject site.

4.10 HNZPT made 45 further submission points (FS1323.134, FS1323.135, FS1323.139, FS1323.47, FS1323.140, FS1323.142, FS1323.141, FS1323.143, FS1323.144, FS1323.48, FS1323.49, and FS1323.51, FS1323.53, FS1323.54, FS1323.55, FS1323.57, FS1323.58, FS1323.62, FS1323.72, FS1323.77, FS1323.145, FS1323.61, FS1323.65, FS1323.68, FS1323.71, FS1323.75, FS1323.96, FS1323.52, FS1323.79, FS1323.59, FS1323.63, FS1323.66, FS1323.69, FS1323.73, FS1323.56, FS1323.60, FS1323.64, FS1323.67, FS1323.70, FS1323.74, FS1323.136, FS1323.137, FS1323.138, FS1323.76, FS1323.50) related to the summary of submissions for the Plan.

4.11 With regard to the further submissions that have been accepted:

FS1323.134, FS1323.135, FS1323.139, FS1323.47, FS1323.140, FS1323.142, FS1323.141, FS1323.48, FS1323.49, FS1323.53, FS1323.54, FS1323.55, FS1323.57, FS1323.72, FS1323.79, FS1323.145, FS.1323.79, FS.1323.56, FS.1323.136, FS.1323.137, FS.1323.138, FS.1323.76, I concur with the assessment and recommendations of the reporting planner.

4.12 With regard to the further submission points accepted in part:

FS1323.144, FS1323.51, FS1323.58, FS1323.61 FS1323.62, FS1323.65, FS1323.68, , FS1323.71, FS1323.72, FS1323.77, FS1323.75, FS.1323.96, FS.1323.52, FS.1323.59, FS.1323.63, FS.1323.66, FS.1323.69, FS.1323.73, FS.1323.60, FS.1323.64, FS.1323.67, FS.1323.70, FS.1323.74, I concur with the assessment and recommendations of the reporting planner.

4.13 With regard to the further submission points (FS1323.143, FS.1323.50) that have been rejected I make the following statements.

4.14 I concur with the assessment and recommendations of the reporting planner in relation to the further submission FS1323.143 that sought that a suitably qualified expert should assess if the St Pauls Methodist church at Te Kowhai, that had been recently relocated from Hamilton, should be included into Schedule 30.1.

4.15 With regard to FS.1323.50 (and related submission points 559.215, 559.76) I refer to the discussion at section 5 of this report in relation to the HNZPT submission seeking the inclusion of the Rangiriri Heritage precinct to the Plan.

5. HNZPT RESPONSE TO RECOMMENDATIONS OF THE PLANNERS REPORT

Objective 7.1.1(a)

5.1 Submission point 559.66 relating to the Wording of Objective 7.1.1(a) where HNZPT sought the following amendments (addition):

(a) A district that acknowledges its past by; recognising, identify, protecting, conserving and promoting historic heritage.

5.2 The reporting planner has only recommended the addition of “historic” to this Policy, advising that the term “conserving” “has the potential will create confusion and conflict the purpose RMA”¹. I do not agree with this assessment. It is reasonable to expect that consideration will be given to the conservation of heritage values at the time of any works on a heritage item. This does not stop works on items and this Plan has anticipated change through an enabling approach for additions, alterations or adaptive reuse that HNZPT supports.

5.3 It is anticipated that change or reuse will occur to most historic heritage items over time. This is one of the reasons why HNZPT listings acknowledge and incorporate the various changes over time. The HNZPT conservation architect is of the view that “*conserving as defined in the ICOMOS NZ Charter is an encompassing word which covers everything from preservation (including maintenance and repair), to restoration, reconstruction, through to adaptation*”.

5.4 I therefore consider that this term is compatible with the RMA framework and the need for sustainable management. This Plan enables works to be undertaken on heritage buildings and it is appropriate that the Plan, through the Objective for the Historic Heritage section provides guidance on how this is to be undertaken. In addition the use of the term “*conserving*” in the Objective creates a consistency through the objective and policy cascade where the term is also used in Policy 7.1.3 (a).

5.5 I seek that Objective 7.1.1(a) is amended as originally sought in the HNZPT submission point 559.66 as follows;

“A district that acknowledges its past by; recognising, identify protecting, conserving and promoting historic heritage.”

Policies and Rules- Incentives for Heritage

5.6 Submission point 559.4 related to the inclusion of incentives for historic heritage within the Plan to encourage the retention and/or adaptive reuse of heritage items. These provisions could cover a range of matters such as permitted activity status for maintenance and repair, the non-supply of carparks at the time of adaptive reuse, subdivision bonus incentives and so on. HNZPT is supportive that the reporting planner, in response to other

¹ Section 42A report, Hearing 14: Historic Heritage and Notable Trees, Pg. 43

HNZPT submission points (559.121, 559.122, 559.123, 559.124, 559.125, 559.126, 559.127), has recommended a permitted activity status for maintenance and repair.

5.7 However with regard to the other suggestions the reporting planner has advised that no further action is required as matters such as a reduction in car parking should be considered as part of the resource consent assessment process. While I could accept that no actual new rule changes are required as part of the historic heritage rules, I only agree in part with that view. If it is the Council's intention to encourage the reuse of building, which appears to be the case from the existing policies, the Plan should offer some direction as the nature of the discretion that may be available at the time of consenting. To this end I consider that an amendment could be made within the existing policies to facilitate this consideration as follows:

5.8 I seek the addition of a new policy to section 7.1.3-Policy-Heritage Items

Encourage and enable the retention and re-use of heritage items, through the consideration of alternative methods of achieving positive planning outcomes.

5.9 In addition HNZPT does have concerns that this submission point is discussed in this hearing report only when options for incentives could also be facilitated through other sections of the Plan such as the subdivision section, by including bonus lots at the time of subdivision for the permanent protection of heritage site. HNZPT recommends that there is an option for this submission point to also be considered as part of the subdivision hearing.

Policies and rules-Rangiriri Heritage Precinct

5.10 Submission point 559.76 sought through Policy 7.1.4a the retention of the Rangiriri Heritage Precinct plus additional information to protect the relationship between the cemetery and the village. In a related submission point 559.215, which has been rejected HNZPT sought that the Rangiriri Heritage Precinct mapping and rule were retained in the Plan.

5.11 Post submission I visited the site with the HNZPT conservation architect. Initially the consideration for the continuation of the Rangiriri Heritage Precinct was on the understanding that it would afford protection for the group of scheduled and listed heritage items. We are now of the opinion that the current Rangiriri Heritage Precinct guidance would not provide to protect the relationship of the heritage items, with its focus on replica type design advice.

5.12 We acknowledge the comments of Dr McEwan that two buildings do not make a precinct. However HNZPT still has an interest to protect and enhance the relationship between the heritage items and their surroundings. The site visit highlighted the somewhat oppressive elements (State Highway 1) in the immediate vicinity and the large extent of sealed parking area that detracted from the appreciation of the sites.

5.13 While it may sit outside this process, I would like to recommend for Waikato District Council to consider a management mechanism such as an area management plan that looks at ways of improving the surrounding area for these heritage items such that the surroundings do not detract from their heritage values. The management plan should give regard to the installation of screening, to screen out SH1 and to improve the amenity of

the streetscape including the reduction of sealed paving surface to enhance the overall setting of the two heritage items.

Policies-Earthquake and fire safety

- 5.14 Submission points 559.78 and 559.79 sought the inclusion of new policies related to Earthquake strengthening and fire safety:

“Earthquake strengthening and safety works. Encourage and facilitate the strengthening of buildings included in the heritage schedule to increase their ability to withstand future earthquakes while minimising the significant loss of associated heritage values.” and

“Fire safety works: Encourage and facilitate the planning and implementation of fire safety works to buildings in the heritage schedule to increase their ability to withstand fire while minimizing the significant loss of associated heritage values “.

while submission point 559.113 sought related rules. The reporting planner rejected these points advising all works should be informed through technical guidance and should be considered as an addition or alteration as they could have adverse effects. I agree with the planner’s assessment in part only.

- 5.15 The intention with the inclusion of these policies was to acknowledge these two types of works, both of which are required to ensure the longevity of the heritage items but can potentially be invasive. The policies, with the words encourage and facilitate etc acknowledge the scale of these types of works and that they may have to be approached in a different manner from other types of additions and alterations for example undertaken in stages, as funding or technical advice can become available. The policy sets out the expectation for Plan users that despite the technical nature of these works they are to be undertaken in a sensitive manner that minimises the loss of heritage values. The associated restricted discretionary activity sought for the activity is the same status as additions and alterations so it is intended that a similar level of assessment is undertaken. I continue to seek the inclusion of these two policies and associated rules. In the alternative the policies could be included into the Plan and consideration of the differing nature and complexity of these works could be included as part of the assessment criteria for additions and alterations.

Scheduling of heritage Items

- 5.16 HNZPT supports the recommendations of the reporting planner for the inclusion of additional items into the Plan Schedule 30.1. With regard to the submission and further submission points that have been recommended to be accepted, or accepted in part, I make the following additional comments of support.

5.17 Submission point 559.223-Pōtatau Monument. HNZPT sought the setting was amended in the Plan to align with the recent HNZPT revised listing of this important HNZPT Category 1 item and site (Listing #757). HNZPT welcomes the recommendation to amend the setting to ensure consistency in administration relating to the important listed and scheduled item.

5.18 Submission point 559.220 sought that the F H Edgecumbe Residence, a HNZPT listed item known as Riverdale (Category 2, HNZPT listing #4256) was to remain in the Plan. I am supportive of the recommendation that the item remains in the Plan and the HNZPT conservation architect supports its revised scheduling as a Category B Place.

5.19 With regard the additional items that have been recommended to be included into Schedule 1, I accept the advice of the HNZPT conservation architect, who has made additional comments and observations to further endorse the recommendations of the reporting planner. The heritage values of these items are sufficient to be included into the Plan, where their scheduling will assist to ensure the retention of their heritage values and their ongoing contribution to the heritage fabric of the Waikato District:

- House, 14 Gallileo Street, Ngaruawahia (Submission 559.226, Further Submission 1323.134)
- Former Taupiri Post Office and Postmaster's Residence, 3 The Crescent, Taupiri, (Submission 559.231)
- Kosoof House, 40 Main Street, Huntly (Submission 559.230)
- Former Robinson's Boarding House, 79 Wilton Collieries Road, Glen Massey, (Submission 559.232)
- Former Marist Juniorate Training College Building, 131 - 139 Dominion Road, Tuakau , (Submission 559.229)
- 11 and 19 Bow Street, Raglan (Submission 559.227/559.228, Further Submission 1323.135)

5.20 Submission point 559.236 sought that the Otaua War Memorial Bowling Green, from the HNZPT War Memorial Inventory project was included into the Plan. The reporting planner, reliant on the advice of Dr.McEwan, has accepted in part only the submission point, recommending scheduling the Bowling Club Gates and Boundary Wall but excluding the Bowling green and auxiliary buildings.

5.21 Reliant on the expert evidence of my colleague Robin Byron, I advise that we continue to seek the inclusion of the entire complex, not just the boundary wall and gates. The green is an integral part of the setting of the boundary wall and gates and they cannot be considered separately.

5.22 From the same submission point 559.236-I am supportive of the recommendation for amendment to the schedule entry for item 23-Former Kariaotahi School/ Kariaotahi Hall of the addition of the Kariaotahi School Roll of Honour from the same HNZPT War

Memorial Inventory project. Its inclusion in the schedule will assist to ensure its protection and ongoing relationship with the building.

Definitions

- 5.23 HNZPT concurs with the reporting planner's assessment of the points to be accepted with the exception of submission point 144 where the HNZPT proposed definition of "maintenance and repair" has been recommended to be accepted, yet the entire wording of the HNZPT submission point has not been included as part of the recommendations at pg.27 of the report, resulting in the definition as recommended missing the last sentence;

"The replacement should be of original or similar material, and maintain a consistency in colour, texture, form and design as the original it replaces".

- 5.24 HNZPT seeks that the full wording of the definition they proposed is included into the decision version of the Plan;

"Means (for historic heritage items listed in Appendix 30.1) work for the purpose of weatherproofing, plumbing and electrical work restoration and for the purpose of repair which includes patching, piecing in, splicing or consolidating of any original structure including the repair of materials and replacement of minor components where these are beyond repair or are missing. The replacement should be of original or similar material, and maintain a consistency in colour, texture, form and design as the original it replaces."

Advice notes

- 5.25 Submission point 559.285 sought an advice note relating to archaeological sites included in the planning maps for information purposes only and also to advise Plan users of their obligations under the HNZPTA 2014. Prior to commenting on the wording of the advice note, I would like to make a response to the Planner's comments at para 36 where the planner has stated "

"This resulted in Councils decision for the focused protection of archaeological sites under the Tangata Whenua chapter, as opposed to the historic heritage chapter. The management of all other archaeological sites and pre 1900 sites shall be undertaken by HNZPT as legislated under the Heritage New Zealand Pouhere Taonga Act 2014".

- 5.26 I would like to clarify that regardless of an archaeological site being scheduled and part of a rule framework in a District Plan, as an archaeological site or as in the case of this Plan as the basis, in part of the Sites and Areas of Significance to Māori, HNZPT has a statutory obligation in the management and regulation of all archaeological sites. Any works to modify or destroy a site will require an Archaeological Authority from Heritage New Zealand. This will be in addition to the requirements of the Plan.

- 5.27 At para 36 the planner has presented an alternative version of the advice note as follows:

"(k) The district plan identifies heritage items, notable trees and Maori sites and areas of significance on the planning maps. Archaeological sites, both recorded (identified by the New Zealand Archaeological Association) and unrecorded sites,

are protected under the Heritage New Zealand Pouhere Taonaga Act 2014. Heritage New Zealand Pouhere Taonaga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological assessment to determine the need for an archaeological authority.”

5.28 In response I seek the following amendments to the advice note that better reflect the HNZPT regulatory role:

“(k) The district plan identifies heritage items, notable trees and Maori sites and areas of significance on the planning maps. Effects on Archaeological sites, both recorded (identified by the New Zealand Archaeological Association) and unrecorded sites, are ~~protected~~ regulated under the Heritage New Zealand Pouhere Taonaga Act 2014. Heritage New Zealand Pouhere Taonaga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological assessment to determine the need for an archaeological authority.”

6. CONCLUSIONS

- 6.1 The RMA requires that the protection of historic heritage should be *recognised and provided for* as a Matter of National Importance (Section 6(f)). As subdivision, use and development have the potential to significantly detract from built and other historic heritage, it is important that the Plan limit the potential for adverse effects to occur.
- 6.2 I seek that the amendments sought through this evidence are retained at the time of the decision making.
- 6.3 I am able to answer any questions that you have relating to this statement.

Carolyn McAlley

For Heritage New Zealand Pouhere Taonga