

BEFORE THE HEARING COMMISSIONERS

**IN THE
MATTER OF**

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

AND

**IN THE
MATTER OF**

**Waikato District Council Proposed
District Plan:
Hearing 22-Infrastructure and
Energy.**

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

1. INTRODUCTION

- 1.1 My name is Carolyn Anne McAlley. I hold the qualification of a Bachelor of Planning degree 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 With regard to the s42A reports for the Infrastructure and Energy topic, HNZPT concurs with the recommendations of the reporting planner with regard the recommendations to their submissions and further submissions, with the exception of the matters itemized below and discussed in section 4 of this statement.
- 2.3 With regard to the S42A-D13 Chapter 6: Infrastructure objectives and policies report, I will discuss the outstanding points 559.59 and 559.63 further in section 4.

2.4 In preparing this evidence I have read the section 42A reports for the Council as relevant to the HNZPT submissions and further submissions.

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 of the RMA requires “*all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources to recognise and provide for:*

...6(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga, and

... 6(f) the protection of historic heritage from inappropriate subdivision use and development” (historic heritage includes sites of significance to Māori).

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 RESPONSE TO RECOMMENDATIONS OF THE PLANNERS REPORT

4.1 (a) Submission point 559.63 relating to Policy 6.2.5 (a) (v) -Environmental Effects

- (i) HNZPT supports the planners recommendation at Para 486 to include the words “*cultural values*” to this Policy, however is concerned that the reporting planner rejects the inclusion of the words “*where practicable*”
- (ii) Each instance should be accessed on a case by case basis. It may be that the significance of any heritage or cultural values is so great that it needs to be avoided while it may not be overly practicable to do so. It is important that this policy is encouraging of avoidance to occur should it be required in the instance of these finite section 6 resources. I do not consider that the deletion of the words “*where practicable*” creates an onerous threshold.
- (iii) The deletion of the words “*where practicable*” provides a clearer expectation of the outcomes expected in relation to the finite s6 resources and better supports the non-complying status of some of the activities. It is worth noting that a non-complying activity still may be approved if the effects are minor.

4.1 (b) Submission point 559.59 relating to Policy 6.1.10-Infrastructure in Identified Areas.

- (i) HNZPT supports the planner’s recommendation at Para 295 to include the words “*Heritage Precincts, and Maaori Sites and Areas of significance*” to the Policy however is concerned that the planner has omitted to include the words “*including Waahi Tapu and Waahi Tapu areas*” as this latter wording is not part of the Plan terminology.
- (ii) HNZPT specifically sought this latter wording to also be included into the Policy as it is consistent with a new schedule that HNZPT sought through other submission points. HNZPT seeks that this submission point stands until such time as the submissions and further submissions to the Tangata Whenua chapter are resolved.

5. CONCLUSIONS

- 5.1 The RMA requires that the protection of the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga as a Matter of National Importance should be *recognised and provided for* as a Matter of National Importance (Section 6 (e) together with Historic Heritage (Section 6 (f))). As subdivision, use and development have the potential to significantly detract from Māori heritage and historic heritage, it is important that the Plan limit the potential for adverse effects to occur.
- 5.2 I seek that the amendments as sought by NZPT in this statement be retained at the time of the decision making.
- 5.3 I am able to answer any questions that you have relating to this statement.

Carolyn McAlley

For Heritage New Zealand Pouhere Taonga