

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan – Stage 1

Hearing 14: Historic Heritage and Notable Trees

Report prepared by: Alice Morris

Date: 28 July 2020



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List of Submitters and Further Submitters addressed in this Report

Original Submitter	Submission number
Adrienne, Lynne	546
Bond, Dee	946
Button, Gladys	562
Dudley, Paula	328
Federated Farmers of New Zealand	680
Giessen-Prinz, Susanne	600
Gore, Andrew & Christine	330
Hamilton City Council (Lance Vervoort)	535
Heritage New Zealand Lower Northern Office (Sherry Reynolds)	559
Housing New Zealand Corporation (Kianga Ora)	749
Hyslop, Jade	435
Kelly, Jenny	590
KiwiRail Holdings Ltd (Pam Butler)	986
Lawson, John	825
Lodge Te Marama No 186 (John Evered)	242
Madsen, Christine	980
Marshall, Trena	233
Mercer Residents & Ratepayers Committee (Liam McGrath)	367
Miller, Cathy	264
Ministry of Education	781
New Zealand Transport Agency (Mike Wood)	742

Further Submitter	FS number
<i>Federated Farmers</i>	<i>FSI 342</i>
<i>Fire and Emergency New Zealand</i>	<i>FSI 114</i>
<i>Havelock Village Ltd</i>	<i>FSI 377</i>
<i>Housing New Zealand Corporation (Kanga Ora)</i>	<i>FSI 269</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FSI 323</i>
<i>Jackson Property Group (Shaun Jackson)</i>	<i>FSI 022</i>
<i>Laing, Ben</i>	<i>FSI 001</i>
<i>Madsen, Christine</i>	<i>FSI 123</i>
<i>Mercury NZ Limited</i>	<i>FSI 223</i>
<i>Mercury B (Mercury NZ Limited)</i>	<i>FSI 385</i>
<i>Mercury C (Mercury NZ Limited)</i>	<i>FSI 386</i>
<i>Mercury D (Mercury NZ Limited)</i>	<i>FSI 387</i>
<i>Mercury E (Mercury NZ Limited)</i>	<i>FSI 388</i>
<i>Pareoranga Te Kata</i>	<i>FSI 035</i>
<i>Rimu Buildings Limited</i>	<i>FSI 097</i>
<i>Te Uku & District Memorial Hall Inc</i>	<i>FSI 043</i>
<i>Waikato Regional Council</i>	<i>FSI 277</i>
<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>FSI 276</i>

Ngati Tamaoho Trust	567
Ngati Te Ata	798
Raglan Naturally (Gabrielle Parson)	831
Raglan Properties Ltd (Alex Kirby)	217
Ross, Robina	115
Sharp Planning Solutions Ltd	695
Silvester, Linda	830
Tainui o Tainui (Angeline Greensill)	942
The Church Village (Dave Campbell)	303
Valmont & Oakfield Trusts (Brendan Wood on behalf of the Trustees)	288
Waikato Decorators (Richard Goode)	241
Waikato District Council	697
Waikato District Heritage Forum	620
Ward, Graeme	37
Wells, Lana & Michael	231
Whaingaroa Environmental Defence Incorporated Society (John Lawson)	780
White, Karen	757

Please refer to Appendix I to see where each submission point is addressed within this report.

I Introduction

I.1 Qualifications and experience

1. My full name is Alice Jane Morris, and I am a Principal Planner in the City Planning Unit at Hamilton City Council ('HCC').
2. I hold the qualification of a Bachelor of Regional Planning from Massey University, New Zealand and recently completed a Masters in Heritage Conservation in Built Heritage from the University of Auckland. I am a full member of the New Zealand Planning Institute.
3. I have over 29 years' planning and resource management experience, including policy development, formation of plan changes and associated s.32 assessments; s.42a report preparation and associated evidence; the preparation of Environment Court evidence; and the preparation of submissions to and the processing of resource consent applications.

I.2 Code of Conduct

4. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

I.3 Conflict of Interest

6. I was not involved in the preparation of the proposed Waikato District Plan ('PDP'). Hamilton City Council ('HCC') are giving assistance to Waikato District Council ('WDC') where their staff expertise can be of assistance, historic heritage being one of those areas of expertise HCC has in-house.
7. I have been assisting HCC with its own submission to the Waikato District Plan process and have already presented evidence on behalf of HCC at Hearing 3 – Strategic matters. However, the matters of opinion expressed in my evidence for Hearing 3 do not, in my opinion, create conflict for my assessment and preparation of recommendations regarding the topic of historic heritage on behalf of WDC.
8. It is however important to note that HCC has a specific submission point that is to be addressed as part of this hearing report. The matter relating to submission point 535.85 where HCC seeks the scheduling of the recently relocated St Paul's Presbyterian Church (formerly from London Street, Hamilton). To avoid any real or perceived conflict of interest this submission point has been assessed by Betty Connolly, Senior Planner, Waikato District Council (refer to the Addendum).
9. Other than stated above, I confirm that I have no real or perceived conflict of interest.

I.4 Preparation of this report

10. I am the author of this report. In preparing this report I rely on expert advice on historic heritage provided by Dr Ann McEwan, Heritage Consultancy Services; and arboriculture provided by Grant Sirl and Kevin Gordon, Waikato District Council.

11. The scope of this evidence relates to evaluation of submissions and further submissions received in relation to the provisions related to historic heritage and notable trees. Matters relating to Maaori Sites of Significance are not dealt with in this report. This topic will be addressed through Hearing 20 Maaori Sites of Significance & Maaori Areas of Significance.
12. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2 Scope of Report

2.1 Matters addressed by this report

13. This report is prepared in accordance with section 42A of the RMA.
14. It is important to also note that stated in the section 32 report are the actions undertaken and direction given by the Elected Members within which the parameter of the Heritage and Notable Trees provisions were formulated. I have taken note of those directions with regard to understanding how the protection of historic heritage within the Waikato District has been undertaken. Nevertheless, I have not limited my professional opinion to that approach when considering submissions seeking an alternative.
15. This report considers submissions that were received by the Council in relation to the management of historic heritage and notable trees within the Waikato Proposed District Plan ('PDP').¹ In addition to the objectives and policies set out in Chapter 7 Historic Heritage, the provisions relating to the management of historic heritage and notable trees in the following individual chapters, appendices, schedules and mapping, as well as specific definitions pertaining to historic heritage are also addressed:

Chapter 12: How to use and interpret the rules

Chapter 13: Definitions

Chapter 16: Residential Zone

Chapter 17: Business Zone

Chapter 18: Business Town Centre Zone

Chapter 20: Industrial Zone

Chapter 21: Industrial Zone Heavy

Chapter 22: Rural Zone

Chapter 23: Country Living Zone

Chapter 24: Village Zone

Chapter 25: Reserve Zone

Appendix 3: Design Guidelines

Schedule 30.1 Historic Heritage Items

Schedule 30.2 Notable Trees

Planning Maps

¹ Hearing 20 Maaori Sites of Significance & Maaori Areas of Significance will address all matters pertaining to Maaori Sites of Significance identified in Schedule 30.3.

2.2 Overview of the topic

16. Historic Heritage is a matter of national importance. In the context of the Waikato District there is a legacy of Historic heritage itmes that reflect the lives and work of former residents, events and industries. These items and sites provide a valuable link to the past for both present and future generations. It is important that these heritage items are protected so the community can understand its past while looking to the future. WDC manage the district's significant historic heritage through the identification and provision of rules to protect heritage items and notable trees in the proposed district plan through the policy framework in Chapter 7 – Historic Heritage, and specific provisions to protect identified heritage items, sites and notable trees in each zone chapter.

2.3 Statutory requirements

17. The statutory considerations which are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019), and the opening planning submissions for Council (23 September 2019, paragraphs 18-32). The opening planning submissions from Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45).
18. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules or other methods) of the proposal to be examined for their efficiency, effectiveness and risk. Section 32 reports were published when the Proposed Waikato District Plan was notified in 2018. Where material changes to the plan are recommended in this report, Section 32AA evaluations updates that earlier analysis.
19. The National Planning Standards seek to provide a standard format for district plans across the country. The Hearings Panel has indicated that it wishes to adopt the National Planning Standards approaches, where possible, during the current hearings.
20. The direction of the National Planning Standards, for the management of historical and cultural values, is for all relevant provisions to be contained in the identified chapters within the section of the district plan headed '*Part 2 – District Wide Matters: Historical and Cultural Values*'.
21. The following section identifies statutory documents with particular relevance to this s42A report topic:
 - Heritage New Zealand Pouhere Taonga Act 2014
The Heritage New Zealand Pouhere Taonga Act ('HNZPTA') is administered by Heritage New Zealand Pouhere Taonga ('HNZPT'). The purpose of this Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.² This Act includes a number of provisions that are closely aligned with the RMA, especially the protection of archaeological sites, heritage covenants and the New Zealand Heritage List/Rarangi Korero ('the List').
 - Resource Management Act 1991
Section 6(f) of the Resource Management Act 1991 ('RMA') directs Council to protect historic heritage. Heritage protection is achieved by promoting the sustainable management of this physical resource, and an absence of protection leaves the heritage items vulnerable to demolition or deterioration and therefore not sustained for future generations.
 - Waikato Regional Policy Statement

² Section 3, Heritage New Zealand Pouhere Taonga Act 2014

Policy 10.1 Historic Heritage, of the Waikato Regional Policy Statement ('WRPS') provides direction on the management of Waikato's historic heritage; specifically the collaborative, consistent and integrated management of historic and cultural heritage resources. The aim is to improve understanding, information sharing and cooperative planning to manage or protect heritage resources across the region.

- **Waikato Heritage Policy**

The Waikato District Heritage Policy, a non-statutory document, was prepared to reinforce the commitment by Council to protect of historic heritage for current landowners (including Council), iwi / hapuu, community, visitors and future generations. The policy provides direction for the day-to-day management of heritage. It is implemented through the district plan, the Annual Plan and Heritage Strategy. This policy is based on the principles of retention, protection and recognition of the district's heritage and culture, of both private and council-owned heritage items.

- **Waikato District Heritage Strategy**

The context for the Waikato District Heritage Strategy is set by the following Principle in the Waikato Heritage Policy: "Principle 2: The Council has a responsibility to lead by example, by protecting Council-owned and managed heritage and to collate and make available to the public, heritage items and information." The Waikato is a source of rich history in terms of the growth of New Zealand as a nation. Council is committed to protecting the heritage items it owns and manages and promote a greater public understanding of the district's history. This Strategy provides a platform for identifying, protecting, promoting and managing the heritage of the district.

2.4 Procedural matters

22. In the preparation of this s42A report there were pre-hearing meetings with Heritage New Zealand Pouhere Taonga staff and the owner of the scheduled heritage item, ID# 35 'Clunes'/Cameron's Castle, 165 Wairamarama Onewhero Road, Onewhero.

3 Consideration of submissions received

3.1 Overview of submissions

23. 40 submissions (consisting of 326 submission points) were received on the topic of Historic Heritage and Notable Trees, and covered objectives and policies, rules, definitions, Schedule 30.1 Historic Heritage Items, Schedule 30.2 Notable Trees and mapping.
24. There are three key themes from the submissions:
 - (a) the planning provisions for built heritage and notable trees;
 - (b) the reinstatement and introduction of heritage precincts; and
 - (c) amendments to Schedule 30.1 (Heritage Items) and Schedule 30.2 (Notable Trees).

3.2 Further Submissions

25. There are 18 further submissions, consisting of 97 further submission points, that are addressed together with the primary submissions they relate to.
26. Numerous Mercury Energy [FS/387] and [FS/223] further submissions oppose original submissions on the grounds that it is not clear how effects from flooding will be managed. I recommend that all of these be rejected, because I consider them irrelevant to the matters considered in this report. These further submissions and my recommendations on them are recorded in Appendix I, and there is no further discussion of the Mercury further submissions in the body of this report.

3.3 Structure of this report

27. The structure of this report begins with an integrated assessment of the key objectives and policies relating to historic heritage and notable trees under Chapter 7; it then addresses the rules concerning the anticipated outcomes in the individual zones. The report considers each chapter and corresponding rules pertaining to heritage in the order that they appear within PDP.
28. The number, nature and extent of the submissions and further submissions received are addressed under the following topic headings:
 - **Priority provisions**
 - **Definitions pertaining to Historic Heritage and Notable Trees**
 - **Objectives and Policies**
 - Chapter 7 – Historic Heritage – All of chapter submissions
 - 7.1.1 Objective
 - 7.1.2 Policy - Identification
 - 7.1.3 Policy - Heritage Items
 - 7.1.4 Policy - Matangi and Huntly Heritage Precinct
 - 7.1.5 Policy - Subdivision
 - 7.1.6 Objective - Notable Trees
 - 7.1.7 Policy - Identification
 - 7.1.8 Policy - Tree protection
 - 7.1.9 Policy - Tree maintenance
 - **Zone Provisions**
 - General zone provision matters
 - Building and vegetation in a battlefield view shaft area
 - Demolition, removal or relocation of any Group A heritage item
 - Demolition, removal or relocation of any Group B heritage item
 - Alteration or addition to a heritage item
 - Maintenance or repair of a heritage item
 - Development on a site containing a heritage item
 - Subdivision of land containing a heritage item
 - Removal or destruction of a notable tree
 - Trimming of a notable tree
 - Any activity within the dripline of a notable tree
 - **Appendices**
 - Appendix 3: Heritage Precinct Design Guidelines
 - **Schedules**
 - Schedule 30.1 Historic Heritage Items
 - Schedule 30.2 Notable Trees
 - **Mapping**

3.4 Amendments to plan text

29. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in red underlined and deleted text in ~~red struck through~~. All recommended amendments are brought together in Appendix 2.

4 Priority provisions

4.1.1 Introduction

30. Chapter 12 of the notified Proposed District Plan sets out how to use the District Plan, interpret the rules and determine activity status.

4.1.2 Submissions

31. The following submissions were made:

Submission point	Submitter	Summary of submission
559.5	Heritage New Zealand Pouhere Taonga	Amend Chapter 12 How to Use and Interpret the Rules, to clearly state that the design policies, rules and various design guidelines are subservient to the historic heritage rules and matters assessment, which will ensure the maintaining of heritage values.
559.285	Heritage New Zealand Pouhere Taonga	Retain Chapter 12.1 How to use and interpret the rules, except for the amendments sought below. AND Add a new section (k) to Chapter 12.1 How to use and interpret the rules as follows: <u>(k) The New Zealand Archaeological Association archaeological sites are included on the planning maps for District Plan information purposes only. However, these sites are subject to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga 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. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites.</u>
FS1377.135	Havelock Village Limited	Support in part
FS1385.19	Mercury NZ Limited	Oppose

4.1.3 Analysis

32. Heritage New Zealand Pouhere Taonga [559.5] ('HNZPT') seeks the inclusion of additional information in Chapter 12 to outline the relationship between the heritage items listed in Scheduled 30.1 Historic Heritage Items and design guides; identifying that the design guidelines are subservient to rules relating to historic heritage to ensure that heritage values are protected.

33. There are no specific directions set out in Chapter 12 regarding provisions that should be of priority when considering use, development or subdivision. The information contained in the chapter provides clear guidance that all relevant planning provisions and the associated activity statuses are to be applied. When translating the directions from Chapter 12 to the relevant zone provisions, there are specific heritage provisions to be adhered to in all zones. This is considered adequate.
34. Heritage New Zealand Pouhere Taonga [559.285] seeks the inclusion of archaeological sites in the planning maps and add the following clause to section 12.1 of Chapter 12 referencing the management of archaeological sites:

(k) The New Zealand Archaeological Association archaeological sites are included on the planning maps for District Plan information purposes only. However, these sites are subject to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga 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. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites.

35. This submission is supported in part by Havelock Village Limited [FS/377.13], and opposed by Mercury NZ Limited [FS/385.19].
36. During the preparation of the Proposed District Plan Council reviewed the management of archaeological sites, in particular the protection of Maaori sites and areas of significance. Feedback received from HNZPT at that time indicated that they did not consider it appropriate that the district plan rule framework duplicated their own requirement.³ This resulted in Council's 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 and pre-1900 sites shall be undertaken by HNZPT as legislated under the Heritage New Zealand Pouhere Taonga Act 2014.
37. Waikato District has a rich pre-1900 history and Council staff have advised that there are practical limitations to trying to map all NZAA sites. However, I consider it would be of assistance for plan users to be advised of their obligations to ensure the protection of archaeological sites. Therefore, I would recommend including the following text in 12.1:

(k) The district plan identifies heritage items, notable trees and Maaori 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 Taonga Act 2014. Heritage New Zealand Pouhere Taonga 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.

4.1.4 Recommendations

38. For the reasons given above, I recommend that the Hearings Panel:

Reject Heritage New Zealand Pouhere Taonga [559.5] - to the extent of amendments to Chapter 12 relating to heritage items.

Accept in part Heritage New Zealand Pouhere Taonga [559.285] and Havelock Village Limited [FS/377.135]; **Reject** Mercury NZ Limited [FS/385.19] - advice on the management of archaeological sites.

³ S.32 Tangata Whenua, 2018, page 60

4.1.5 Recommended amendments

39. The following amendment is recommended:

Chapter 12 How to use and interpret the rules

12.1 Introduction to rules ⁴

(k) The district plan identifies heritage items, notable trees and Maaori sites and areas of significance on the planning maps. Archaeological sites, both recorded (identified by the New Zealand Archaeological Association) and unrecorded, are protected under the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga 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.

4.1.6 Section 32AA evaluation

Other reasonably-practicable options

40. The addition to section 12.1 is considered to be the more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

41. The recommended amendment improves the effectiveness and efficiency of the district plan in providing advice to plan users on the importance of considering archaeological sites, although they are not specifically identified on the planning maps.

Costs and benefits

42. There are no additional costs, therefore costs are likely to be the same. There are benefits for the environment and the management requirements of archaeological sites under the HNZPT Act. Other benefits are clearer guidance to plan users.

Risk of acting or not

43. The risk of not providing this guidance could mean unintentional damage and destruction of archaeological sites.

5 Definitions pertaining to Historic Heritage

5.1.1 Introduction

44. Hearing 5 Definitions addressed all submissions on general definitions. Specific definitions pertaining to historic heritage and notable trees are addressed in this hearing.

5.1.2 Submissions

45. Twelve submission points and 3 further submission points seek amendments to the definitions relating to historic heritage and notable trees in Chapter 13 - Definitions.
46. The following submissions were made:

Submission point	Submitter	Summary of submission

⁴ [559.285] and [FS1377.135]

559.144	Heritage New Zealand Pouhere Taonga	<p>Delete the definition of “Maintenance and Repair” in Chapter 13: Definitions.</p> <p>AND</p> <p>Replace the definition for “Maintenance and Repair” in Chapter 13: Definitions with the following definition: <u>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 there are beyond repair or are missing. The replacement should be original or similar material and maintain a consistency in colour, texture, form and design as the original it replaces.</u></p>
559.145	Heritage New Zealand Pouhere Taonga	Delete the definition of “Restoration” in Chapter 13: Definitions.
559.146	Heritage New Zealand Pouhere Taonga	Amend the definition of “Significant feature of interest” in Chapter 13: Definitions as follows: Means those parts of a historic heritage building, which is shown on the planning maps and listed in Appendix 30.1 , that are described in the individual historic heritage item record form.
559.289	Heritage New Zealand Pouhere Taonga	Amend the heading of the definition of “addition or alteration” in Chapter 13: Definitions to be “addition” as follows: Alteration or Addition.
559.290	Heritage New Zealand Pouhere Taonga	Retain the definition of “Alteration” in Chapter 13: Definitions
559.291	Heritage New Zealand Pouhere Taonga	Retain the definition of “Historic Heritage” in Chapter 13: Definitions.
559.292	Heritage New Zealand Pouhere Taonga	<p>Add the definition of “Historic heritage values” to Chapter 13: Definitions to have the same meaning as Part 2 of the Resource Management Act.</p> <p>AND</p> <p>Provide for any consequential amendments as required throughout the Proposed District Plan.</p>
<i>FS1388.813</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
680.141	Federated Farmers of New Zealand	Retain the definition of “Heritage item” in chapter 13: Definitions as notified.
680.269	Federated Farmers of New Zealand	Retain the definition of “Significant feature of interest” in Chapter 13 Definitions, as notified.
<i>FS1223.199</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
695.65	Sharp Planning Solutions	Amend the definition of “Dripline” in Chapter 13

	Ltd	Definitions to include, where a tree is deciduous, the ground underneath the furthest extent of the branch system of the tree.
697.362	Waikato District Council	Delete from Chapter 13 Definitions the definition for “Alterations”
697.487	Waikato District Council	Amend the definition of “Alteration or addition” as follows: Means for heritage items listed in Appendix 30.1, an extension to a structure or building which increase its size, height and volume, including the construction of new floors, walls, ceilings and roofs. <u>Means any changes to the fabric or characteristics of a building including: external extensions that increase the size, height and volume of the building; or removal and replacement of windows, ceilings, floors, roofs or external walls; or the attachment of external structures such as canopies, verandahs, pergolas and balustrades. Does not include maintenance or repair.</u>
FS1323.96	Heritage New Zealand Pouhere Taonga	Oppose

5.1.3 Analysis

47. Heritage New Zealand Pouhere Taonga [559.144] (‘HNZPT’) seek the deletion of the definition as notified for ‘maintenance and repair’, and for it to be replaced with the following:

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 there are beyond repair or are missing. The replacement should be original or similar material and maintain a consistency in colour, texture, form and design as the original it replaces.

48. The existing definition states:

<i>Maintenance and repair</i>	<i>Means (for historic heritage items listed in Appendix 30.1) making good: (a) decayed or damaged material, and includes works involving stabilisation, restoration, preservation and conservation.</i>
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49. This definition has a degree of subjectivity that could be unhelpful in determining the difference between work deemed maintenance and repair, and work deemed for additions, alterations, restoration or reconstruction. The revised definition proposed by HNZPT aligns with accepted practice under the ICOMOS New Zealand Charter 2010.⁵

⁵ The International Council on Monuments and Sites (ICOMOS) - the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value (ICOMOS New Zealand Charter 2010). ICOMOS defines maintenance and repair as follows:

50. I recommend replacing the existing definition for 'Maintenance and repair' for historic heritage items with the definition by HNZPT.
51. Heritage New Zealand Pouhere Taonga [559.145] ('HNZPT') seeks the deletion of the definition for 'restoration', as this is not reflected within the rule framework and is already included as part of their proposed definition for 'maintenance' and repair' and the definitions for 'additions' and 'alterations'.
52. The definition for restoration under the ICOMOS NZ Charter falls under the term 'intervention' for conservation purposes that is minimal, defined as works involving reassembly and reinstatement, and may involve the removal of materials that detract from the heritage value of the identified heritage item. This is distinct from reconstruction, which is the introduction of new materials to replace materials that have been lost. I consider that these two terms fall under the definitions for additions and alterations in the proposed district plan, accordingly restoration is already captured, as identified by HNZPT.
53. Therefore, I recommend the deletion of the definition and that the submission be accepted.
54. Heritage New Zealand Pouhere Taonga [559.146] ('HNZPT') seeks amendments to the definition of 'Significant Feature of Interest', while Federated Farmers of New Zealand [680.269] ('FFNZ') seek the retention of the definition as notified.
55. 'Significant feature of interest' is defined in the notified proposed district plan as:

Significant feature of interest	Means those parts of a historic heritage building, which is shown on the planning maps and listed in Appendix 30.1, that are described in the individual heritage item sheet.
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56. HNZPT is concerned that referencing significant features lessens the importance of considering a heritage item as a whole, rather than being limited to those identified in the notified version of Schedule 30.1 - Historic Heritage Items. HNZPT states that there is a risk when focusing on significant features, and this can encourage a piecemeal approach, resulting in the potential for changes to occur to those "non-significant" features that could compromise the overall heritage values of the scheduled item.
57. FFNZ supports the definition.
58. The term 'Significant Feature of Interest' is applied in the notified Schedule 30.1 and the relevant zone rules for historic heritage. Section 7.10 of this report addresses submissions to Schedule 30.1 that include submission points pertaining to the Schedule's 'Significant Features' column and the appropriateness of that information. Due to my assessment of those submission points, I have recommended removing that column and in doing so all references to 'significant features'. Instead placing full reliance on the more detailed information contained in the individual heritage record for each scheduled item. I consider this is best practice in the management and protection of historic heritage. Therefore, as a consequence I recommend that all referencing of 'significant features' in the relevant policies and rules be removed. As a result, the definition 'Significant Feature of Interest' becomes redundant.
59. Accordingly, I recommend that the definition be deleted.

Maintenance – means regular and on-going protective care of a place to prevent deterioration and to retain its cultural heritage value

Repair – means to make good decaying or damaged fabric using identical, closely similar, or otherwise appropriate material.

60. Heritage New Zealand Pouhere Taonga [559.289] and [559.290] ('HNZPT') seek an amendment to the definitions relating to alteration and addition as defined in Chapter 13. Waikato District Council [697.362] and [697.487] ('WDC') seek the rewording of the notified definition for 'Alteration or additions' and to delete the definition for 'Alterations'. Heritage New Zealand Pouhere Taonga [FS/323.96] opposes WDC's submission.

61. In the proposed district plan these definitions are as follows:

Alteration or addition	Means for heritage items listed in Appendix 30.1, an extension to a structure or building which increases its size, height and volume, including the construction of new floors, walls, ceilings and roofs.
Alterations	Means for heritage items listed in Appendix 30.1, any changes to the fabric or characteristics of a building and includes the removal and replacement of external walls, windows, ceilings, floors or roofs. It does not include repair or maintenance as defined elsewhere.

62. The outcome sought by HNZPT would separate the terms 'alteration' and 'addition' into two succinct definitions by deleting 'alteration' from the definition for 'Alteration or addition'. WDC's relief would delete the notified definitions and replace them with a new definition for 'Alteration or addition' as follows:

<u>Alteration and addition</u>	<p><u>Means any changes to the fabric or characteristics of a building including:</u></p> <ul style="list-style-type: none"> • <u>external extensions that increase the size, height and volume of the building; or</u> • <u>removal and replacement of windows, ceilings, floors, roofs or external walls; or</u> • <u>the attachment of external structures such as canopies, verandahs, pergolas and balustrades.</u> <p><u>Does not include maintenance or repair.</u></p>
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63. HNZPT opposes WDC's proposed wording, highlighting that the proposed definition would no longer only relate to heritage items, and question whether that was the intent of WDC's submission.
64. WDC seek the deletion of the definition for 'alterations' to remove duplication with the definition for 'alteration and addition'.
65. The present definitions are limited to works relating to heritage items, while for the administration of the plan those definitions should have wider application. The proposed wording by WDC incorporates the intent of both of the notified definitions, and for good plan administration removes unnecessary duplication.
66. I consider that the intent of both submission points is the reduction in duplication, along with the provision of clarity around what both terms mean and how they are to be applied within the context of the district plan framework. However, I also consider that it is important to be specific about the differences meant by each term when considering the implications of alterations and additions on heritage items.
67. Therefore I recommend that both submissions be accepted in part:

<u>Additions</u> Alteration or addition	Means for heritage items listed in Appendix 30.1, an extension to a structure or building which increases its size,
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	height and volume, including the construction of new floors, walls, ceilings and roofs.
Alterations	Means for heritage items listed in Appendix 30.1, any changes to the fabric or characteristics of a building and includes the removal and replacement of external walls, windows, ceilings, floors or roofs. It does not include repair or maintenance and repair as defined elsewhere.

68. Heritage New Zealand Pouhere Taonga [559.291] ('HNZPT') and Federated Farmers of New Zealand [680.141] ('FFNZ') seek the retention of the definition for 'Heritage Item' as notified. Therefore no further action is required.
69. Heritage New Zealand Pouhere Taonga [559.292] ('HNZPT') seek the addition of a definition for the term 'Historic Heritage value'. In their submission, HNZPT specifically identify the use of the undefined term 'heritage value' within the matters of discretion in all of the zones' earthwork rules 'Earthworks - Maaori sites and Maaori Areas of Significance'.
70. The definition in the RMA for 'Historic heritage' is used to define 'historic heritage' in the proposed district plan:
- historic heritage —*
- (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*
71. Reference to 'heritage values' in relation to the scheduled heritage items aligns with the qualities as listed in the RMA definition. This term, along with 'significance' and 'qualities', are all used in the context of the heritage importance of an item when considering its protection. Therefore, I do not consider that there is the need to define 'heritage values' in the district plan.
72. Sharp Planning Solutions Ltd [695.65] seeks the amendment of the definition of 'dripline' as notified to address when a tree is deciduous (a tree that seasonally loses its foliage).⁶ The submitter is concerned that the definition as presently written does not cater for all tree species.
73. The dripline of a tree defines an area for protection and the management of activities is to ensure that the health and vitality of the tree is protected, including both the canopy

⁶ The definition for dripline in the notified version of the Proposed District Plan: means the ground beneath the foliage of a tree.

structure (total portion of the tree consisting of the limbs, branches and leaves) and the root plate of the tree.

74. It is important to note also that there is no mandatory definition for 'dripline' to ensure the protection of the branch and root zone in the guidance under the National Planning Standards.⁷ Councils can therefore apply any additional term they choose to define. As the use of 'dripline' is specifically used in provisions for the management of notable trees, it is important to provide adequate and correct guidance.
75. Traditionally, the canopy spread is determined by the outermost part of the branch spread or branch tip ends for both evergreen and deciduous varieties. The outermost circumference of a tree's canopy correlates with a tree's root zone when the tree species has a spreading canopy. However, this is not the case for tree species with an upright or 'fastigate' growth form. Their 'dripline' does not equate to the extent of their root zone. Council's arborists, Mr Kevin Gordon and Mr Grant Sirl, have advised me that the correct arboricultural practice to identify the extent of the 'dripline' of a tree is by identifying the 'Tree Protection Zone' ('TPZ').
76. The New Zealand Arboricultural Association, in the absence of specific New Zealand standards, recommends the adoption of accepted international standards, and uses the following international definition when defining the tree protection zone:

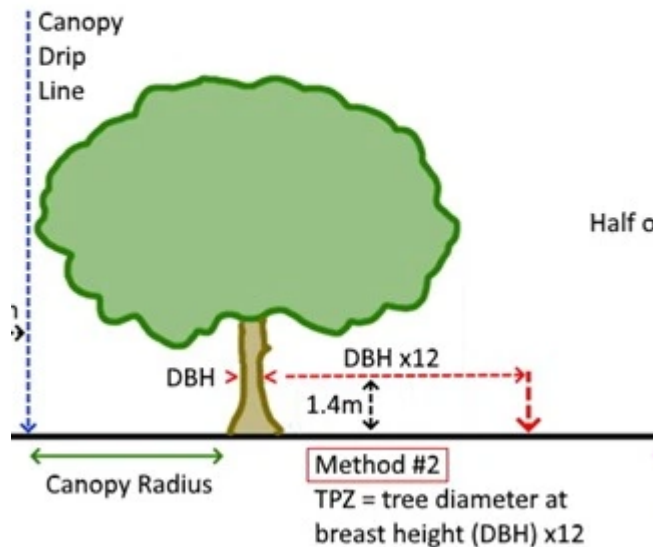
The Tree Protection Zone (TPZ) is a circle taken from the centre of the trunk with a radius equal to 12 times the diameter of the trunk measured at 1.4m (DBH) above ground level.

77. Applying the TPZ ensures that the entire structure of the tree, whether evergreen or deciduous, and with either a spreading or upright canopy is correctly protected. I consider that this advice from Mr Gordon and Mr Sirl to modify the definition of 'dripline' by applying the TPZ principle will provide greater clarity around what is meant by dripline, that will ensure improved plan administration as sought by the submitter. Therefore, I recommend that the definition for 'dripline' be modified as follows:

Dripline - means the ground beneath the foliage of a tree area surrounding a tree known as the Tree Protection Zone (TPZ). The extent of the TPZ is determined by the canopy spread (branch structure with or without leaf coverage), or the formula as identified below for an upright or fastigated tree:

⁷ <https://www.mfe.govt.nz/sites/default/files/media/RMA/national-planning-standards-november-2019.pdf>

Calculating the Tree Protection Zone (TPZ)



<https://deepgreenpermaculture.com/2019/07/22/how-far-do-large-tree-roots-extend/>

Note: the final diagram will align with the other diagrams in the definitions section – and the shape of the tree is changed to also represent an upright species.

5.1.4 Recommendations

78. For the reasons outlined above, I recommended that the Hearings Panel:

Accept Heritage New Zealand Pouhere Taonga [559.144] - definition of 'Maintenance and repair'.

Accept Heritage New Zealand Pouhere Taonga [559.145] - definition of 'restoration'.

Accept in part Heritage New Zealand Pouhere Taonga [559.146] and **Reject** Federated Farmers of New Zealand [680.269] and Mercury NZ Limited [FS/223.199] - definition for 'Significant Feature of Interest'.

Accept in part Heritage New Zealand Pouhere Taonga [559.289] and [559.290], Waikato District Council [697.362] and [697.487], and Heritage New Zealand Pouhere Taonga [FS/323.96] - definitions for 'Alteration or addition' and 'Alteration'.

Accept Heritage New Zealand Pouhere Taonga [559.291] and Federated Farmers of New Zealand [680.141] - retention of the definition of Historic Heritage.

Reject Heritage New Zealand Pouhere Taonga [559.292] and Mercury NZ Limited [FS/388.8/3] - definition for Heritage values.

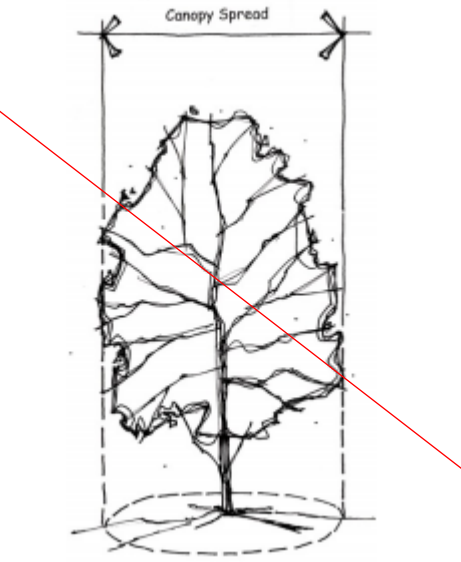
Accept in part Sharp Planning Solutions Ltd [695.65] - amendments to the definition for 'dripline'.

5.1.5 Recommended amendments

79. The following amendments are recommended:

Chapter 13 - Definitions

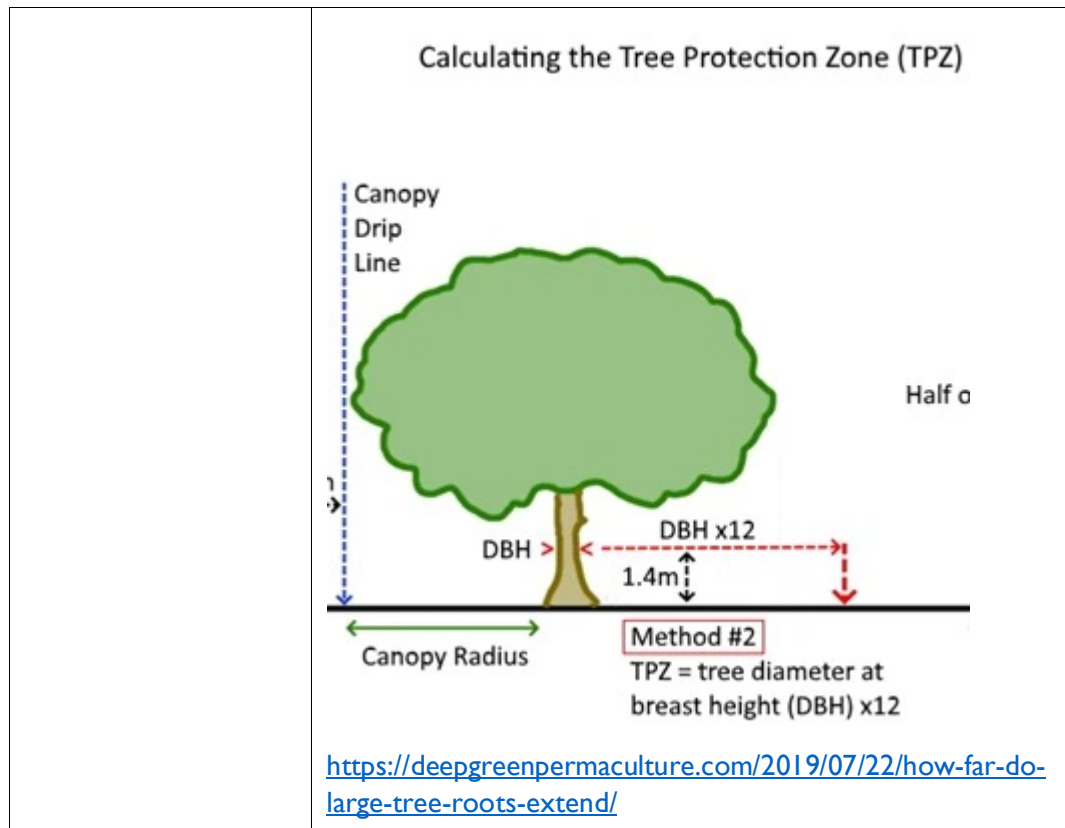
<p><u>Additions</u>⁸ Alteration or addition</p>	<p>Means for heritage items listed in Appendix 30.1, an extension to a structure or building which increases its size, height and volume, including the construction of new floors, walls, ceilings and roofs.</p>
<p>Alterations⁹</p>	<p>Means for heritage items listed in Appendix 30.1, any changes to the fabric or characteristics of a building and includes the removal and replacement of external walls, windows, ceilings, floors or roofs. It does not include repair or maintenance <u>and repair</u> as defined elsewhere.</p>

<p>Dripline¹⁰</p>	<p>Means the ground beneath the foliage of a tree <u>area surrounding a tree known as the Tree Protection Zone (TPZ). The extent of the TPZ is determined by the canopy spread (branch structure with or without leaf coverage), or the formula as identified below for an upright or fastigiated tree:</u></p> 
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⁸ [559.289], [559.290], [697.362], [697.487], and [FS1323.96]

⁹ [559.289], [559.290], [697.362], [697.487], and [FS1323.96]

¹⁰ [695.65]



NOTE: Original diagram added and struck through/ the proposed diagram needs to be reformatted to align with the other diagrams in the definitions section – and the shape of the tree is changed to also represent an upright species.

Maintenance and repair ¹¹	Means (for historic heritage items listed in Appendix 30.1) <u>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 they are beyond repair or are missing, making good:</u> decayed or damaged material, and includes works involving stabilisation, restoration, preservation and conservation.
Restoration ¹²	Means for historic heritage items listed in Appendix 30.1, returning a place as near as possible to a known earlier state by reassembly, reinstatement and/or the removal of extraneous additions.
Significant feature of interest ¹³	Means those parts of a historic heritage building, which is shown on the planning maps and listed in Appendix 30.1, that are described in the individual heritage item sheet

¹¹ [559.144]

¹² [559.145]

¹³ [559.146]

5.1.6 Section 32AA evaluation

Other reasonably-practicable options

80. The amendments are considered a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

81. The recommended amendments improve the efficiency and effectiveness of the Proposed Plan in implementing the provisions and provide suitable guidance to plan users for the interpretation of defined terms in the Plan.

Costs and benefits

82. There are no additional costs, therefore costs are likely to be the same. There are benefits for the environment with the revised definitions in providing clearer guidance to plan users.

Risk of acting or not acting

83. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the definitions.

6 Objectives and Policies

6.1 Chapter 7 – Historic Heritage – All of chapter submissions

6.1.1 Introduction

84. The proposed district plan sets out the framework for the use and development of the district's Historic Heritage in accordance with the Part 2 of the RMA. The s.32 Report (Historic Heritage dated 18 July 2018) states that the legacy of historic heritage, in reflecting the lives and work of former residents and events, provides a valuable link to the past. As heritage is a finite resource, the identification and protection of the district's heritage is important for these linkages to be acknowledged and protected to enable the present community to understand its past and ensure that the resource is retained for future generations.

6.1.2 Submissions

85. There are nine submission points and four further submission points relating to all of Chapter 7 matters pertaining to the wider focus of the management of historic heritage.
86. The following submissions and further submissions were made:

Submission point	Submitter	Summary of submission
241.1	Richard Goode for Waikato Decorators	No specific decision sought, but submission opposes Chapter 7 Historic Heritage.
FS1323.47	Heritage New Zealand Pouhere Taonga	Oppose
328.9	Paula Dudley	Retain Section 7.1 Protection of Historic Heritage and Notable Trees.

367.12	Mercer Residents and Ratepayers Committee	Retain Section 7.1 Protection of Historic Heritage and Notable Trees.
559.4	Heritage New Zealand Pouhere Taonga	Amend the Proposed District Plan to include incentives and bonus provisions to encourage the retention of heritage, as follows: <ul style="list-style-type: none"> • Permitted activity status for repairs and maintenance, and • Appropriate activity status for adaptive reuse and earthquake strengthening, and • The non-supply of car parking spaces at the time of the adaptive reuse, and • Bonus provisions for the permanent protection of heritage sites.
FS1269.42	Housing New Zealand Corporation	<i>Supports the proposed amendment, to the extent it is consistent with its primary submission.</i>
559.65	Heritage New Zealand Pouhere Taonga	Amend Chapter 7 Historic Heritage to include a reference to the individual rules that give effect to those objectives and policies.
559.78	Heritage New Zealand Pouhere Taonga	Add a new policy to Chapter 7 Historic Heritage as follows: <u>Earthquake 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.</u>
559.79	Heritage New Zealand Pouhere Taonga	Add a new policy to Chapter 7 Historic Heritage to include the following: <u>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 minimising the significant loss of associated heritage values.</u>
FS1114.19	Fire and Emergency New Zealand	<i>FENZ is in support of this proposed policy as it highlights an important resource management issue, being the fire protection of heritage buildings. In some circumstances fire safety works involve additional structures and building alternations that may have an impact on the heritage values of the building or site. It is appropriate that consideration be given to potential impacts of fire safety work on these heritage values. FENZ does wish to reiterate the importance, as set out in its submission, of buildings having appropriate levels of water supply for firefighting purposes (whether reticulated or non-reticulated) and access for fire-fighting appliances.</i>
567.33	Ngati Tamaoho Trust	No specific decision sought, but submission supports the additional heritage sites.

590.2	Jenny Kelly	Amend the Proposed District Plan to consider the inclusion of a central district repository of heritage and community archives within Chapter 7 Historic Heritage.
942.59	Tainui o Tainui (Angeline Greensill)	Retain objectives and policies in Chapter 7: Historic Heritage.
<i>FS1035.95</i>	<i>Pareoranga Te Kata</i>	<i>Oppose</i>

6.1.3 Analysis

87. Paula Dudley [328.9] and Mercer Residents and Ratepayers Committee [367.12] seek the retention of Section 7.1 as notified. Ngati Tamaoho Trust [567.33] support the addition of heritage sites; and Tainui o Tainui [942.59] support the objectives and policies set out in Section 7.1 of the PDP for the protection of historic heritage and notable trees. Tainui o Tainui's submission point is opposed by Pareoranga Te Kata [FS1035.95]. This further submission, while supporting the protection of Historic Heritage and Notable Trees, has a general opposition to the Tainui o Tainui's submission in relation to Whaingaroa Raglan, stating: "do not revere Tainui in its Raupatu Settlement 1995". This is not a matter that can be addressed via this hearing report.
88. Richard Goode for Waikato Decorators [241.1] opposes Chapter 7; Heritage New Zealand Pouhere Taonga [FS1323.47] opposes the submission. No reasons or relief was provided by the submitters; therefore I recommend no further action.
89. Jenny Kelly [590.2] seeks an amendment to the district plan to provide for a central district repository of heritage and community archives. This is a matter for Council to consider under either the Long Term Plan and/or annual plan process. It is not a matter for the district plan to address.
90. Heritage New Zealand Pouhere Taonga [559.4] ('HNZPT') seeks the inclusion of incentives and bonus provisions to encourage the retention of heritage. HNZPT identifies that incentives can be via positive regulatory measures such as permitted activities, encouraging adaptive reuse; as well as exempting development in scheduled buildings from district-wide provisions such as car parking, and the introduction of bonus provisions. Housing New Zealand Corporation [FS1269.42] supports this submission.
91. I concur with HNZPT that incentives can encourage the sustainable management of heritage and support the owners and the public; and can be a tool to assist the retention and reuse of heritage buildings. However, the planning framework should not promote outcomes that could be detrimental to the surroundings solely for the protection of heritage items. Using the HNZPT example of car parking, while allowing an activity to repurpose a scheduled building without meeting relevant planning provisions that would apply if the activity was occupying a non-scheduled building. While it may be logical to ensure that the heritage building is occupied, I consider such an 'incentive' should be addressed through a resource consent assessment, in order to ensure that the outcome does not impact on the surrounding environment. The planning framework of the district plan must recognise and balance all relevant factors (e.g. the national importance of the heritage item and the overarching purpose for the zone) in achieving the purpose of the RMA.
92. Therefore, while there are no specific incentive provisions identified in the district plan, I consider that incentives to support the retention of historic heritage items are already

applied through the activity status and rule framework of the district plan. As a result, no further action is required.

93. Heritage New Zealand Pouhere Taonga [559.65] ('HNZPT') seeks to amend Chapter 7 to include reference to individual rules that give effect to the objectives and policies in Chapter 7. This submission point aligns with the matters sought through submission points 559.1 and 559.3 pertaining to historic heritage as discussed in Hearing 2 - All of Plan Matters and Plan Structure. HNZPT's reasoning for this change is to enable a greater understanding of the framework utilised through the district plan for the protection of the district's historic heritage. It is considered that the relief sought aligns with the approach to be mandated through the National Planning Standards for historic heritage.
94. The present structure of the PDP has a stand-alone chapter (Chapter 7 – Historic Heritage) pertaining to the management and protection of historic heritage. Chapter 7 contains the objectives and policies for historic heritage and notable trees, while provisions to achieve those objectives and policies are contained within individual zone chapters. This format does not align with the direction set under the National Planning Standards. Under the National Planning Standards, the management of historic heritage is to be contained in Part 2 – District Wide Matters under the heading '*Historical and Cultural Values*' that cascades into three separate chapters to be titled 'Historic Heritage', 'Notable Trees' and 'Sites and areas of significance to Maori'. Under the direction of the National Planning Standards, if the matter of identification of historic heritage and the provisions to protect that identified heritage are to be addressed in the district plan, they are to be located within the Historic Heritage Chapter along with any heritage orders and the schedules(s) identifying the sites. Similarly, the same approach is required for notable trees and Sites and areas of Significance to Maori.
95. The relief sought by HNZPT would provide the scope to ensure alignment of the historic heritage component of the final format of the district plan. I am aware of the direction from the Hearing Panel for WDC staff to consider further the ability to reformat the final version of the proposed district plan to align with the National Planning Standards for historic heritage. Therefore no further action is required at this time.
96. Heritage New Zealand Pouhere Taonga [559.78] and [559.79] ('HNZPT') seeks the inclusion of new policies to specifically address matters pertaining to earthquake strengthening and safety works, and fire safety works to enable a suite of provisions to be applied that specifically address these topics as policies. HNZPT's suggested wording is as follows:

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

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 minimising the significant loss of associated heritage values.
97. Fire and Emergency New Zealand [FS114.19] supports the proposed policy approach.
98. Council's obligation is to protect historic heritage from inappropriate subdivision, use and development through the recognition of and provisions for the protection of historic

heritage in the district plan.¹⁴ The present suite of objectives and policies proposed in the PDP for the protection of the district's historic heritage does, as acknowledged by HNZPT, generally address the protection, conservation and promotion of historic heritage. Nevertheless, HNZPT considers that there is an obligation under the Resource Management Act, not just the Building Act, to provide for the consideration of earthquake strengthening and fire safety works because of their potential to be very intrusive on historic heritage values.

99. The Building Act requires all publicly-accessible buildings to comply with fire safety and earthquake requirements. However, engineering solutions used to achieve these legislative requirements are not always sympathetic to the heritage values of the buildings or structures being strengthened.
100. Any work to a heritage item that is not guided by correct technical advice, and does not consider a building's heritage fabric, form and materials, can adversely impact the item's heritage values. Through the planning provisions in the PDP, such works fall under the provisions for additions and alterations to heritage items. Fire safety and earthquake strengthening works can be adequately addressed under the umbrella of the policy and rule frameworks for additions and alterations.
101. Therefore, I consider it is not necessary to separate these works out from any other type of additions and alterations as defined in the district plan.

6.1.4 Recommendations

102. For the reasons outlined above, I recommend that the Hearings Panel:

Accept in part Paula Dudley [328.9], Mercer Residents and Ratepayers Committee [367.12], Ngati Tamaoho Trust [567.33] and Tainui o Tainui [942.59] - to the extent that Section 7.1 be retained with amendments under other submissions.

Reject Heritage New Zealand Pouhere Taonga [559.78] and [559.79] and Fire and Emergency New Zealand [FS114.19] - earthquake strengthening and fire safety policy.

Accept in part Heritage New Zealand Pouhere Taonga [559.4] and [559.65] and Housing New Zealand Corporation [FS1269.42] - alignment with the National Standards.

Reject Jenny Kelly [590.2], Richard Goode for Waikato Decorators [241.1] and Pareoranga Te Kata [FS1035.95].

Accept Heritage New Zealand Pouhere Taonga [FS1323.47].

6.1.5 Recommended amendments

103. No amendments are recommended.

6.1.6 Section 32AA evaluation

104. As I have not recommended any amendments, no s.32AA evaluation is required to be undertaken.

¹⁴ as a matter of national importance (s.6(f), RMA 1991); direction set through the Waikato Regional Policy Statement (WRPS, Section 10)

6.2 Objective 7.1.1

6.2.1 Introduction

105. Objective 7.1.1 sets the direction for the recognition, identification, protection and promotion of the district's heritage, with a strong focus on built heritage. Noting under Chapter 7 – Historic Heritage that there is a separate objective for notable trees.

6.2.2 Submissions

106. Three submission points and one further submission point were received relating to Objective 7.1.1. All seek retention of the objective.
107. The following submissions were made:

Submission point	Submitter	Summary of submission
559.66	Heritage New Zealand Pouhere Taonga	Retain Objective 7.1.1 (a), except for the amendments sought below. AND Amend Objective 7.1.1 (a) as follows: (a) A district that acknowledges its past by: recognising, identifying, protecting, <u>conserving</u> and promoting <u>historic</u> heritage.
680.112	Federated Farmers of New Zealand	Amend Objective 7.1.1 (a) as follows: (a) A district that acknowledges its past by: recognising, identifying, protecting and promoting <u>historic</u> heritage. AND Any consequential changes needed to give effect to this relief.
<i>FS1323.48</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support.</i>
980.2	Christine Madsen	Retain Objective 7.1.1, in particular the relationship between heritage buildings, sites, structures, places and their settings including the view of the identified heritage item.

6.2.3 Analysis

108. Christine Madsen [980.2] seeks the retention of Objective 7.1.1. I recommend that this be accepted in part, subject to the amendments to the objective recommended in response to other submissions.
109. Heritage New Zealand Pouhere Taonga [559.66] ('HNZPT') seeks to retain Objective 7.1.1 with the inclusion of the words 'historic' and 'conserving'.
110. Federated Farmers of New Zealand [680.112] ('FFNZ') seek to retain Objective 7.1.1 with the the inclusion of the word 'historic'. Heritage New Zealand Pouhere Taonga [FS1323.48] supports the FFNZ submission point.

111. As set out in the Section 32 report, the economic, social, and cultural importance of heritage is recognised through a number of pieces of legislation and strategic documents at national, regional and local level. Collectively, they set the framework for recognising, identifying, protecting, conserving and promoting the importance of heritage.
112. Historic heritage, under the Resource Management Act, is of national importance (section 6(f)) and is to be protected from inappropriate subdivision, use and development. In achieving this type of protection, the methods used to achieve such protection must be in accordance with the overarching purpose of the Act, which is to promote the sustainable management of natural and physical resources (Section 5 (1) Purpose, RMA). At the same time the purpose of the Heritage New Zealand Pouhere Taonga Act 2014 is to promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand (Section 3 Purpose, HNZPT Act, 2014).
113. The Waikato Regional Policy Statement ('WRPS') directs territorial authorities to protect the region's historic heritage under Policy 10. Heritage. The policy structure of the WRPS directs the planning frameworks of district plans to ensure that "appropriate subdivision, use and development respects historic and cultural heritage values and can add value to and protect the heritage resource"; and that the destruction or damage to heritage resources need to be avoided.¹⁵ It is not the intention of the directive to "prevent change to historic and cultural heritage but rather to ensure that change is carefully considered".¹⁶
114. While the term 'conservation' is not defined in the RMA, it is defined under the Heritage New Zealand Pouhere Taonga Act, which states:
- "Conservation includes the processes of preserving, maintaining, and restoring historic places and historic areas so as to safeguard their historic and cultural values."*
115. The ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value, 2010 defines the purpose of conservation as to "retain and reveal such values, and to support the ongoing meanings and functions of places of cultural heritage values, in the interests of present and future generations...."¹⁷ Specifically, the NZ Charter states that places that are identified as having cultural heritage value have:
- Lasting values and can be appreciated in their own right
 - Inform us about the past and the cultures of those who came before us
 - Provide tangible evidence of the continuity between past, present, and future
 - Underpin and reinforce community identity and relationships to ancestors and the land
 - Provide a measure against which the achievement of the present can be compared.
116. As notified, Objective 7.1.1. states: A district that acknowledges its past by: recognising, identifying, protecting and promoting heritage. The role of the district plan is to ensure the sustainable management of the heritage resource. Introducing the term 'conservation' has the potential to cause confusion and conflict with the purpose of the RMA. The expectation of sustainable management of historic heritage as a resource must enable its ability to be used to provide for social, economic, and cultural well-being and for the health and safety of

¹⁵ Operative Waikato Regional Policy Statement, Part B, 10 Heritage, Policy 10.3 Effects of development on historic and cultural heritage, Explanation (<https://www.waikatoregion.govt.nz/Council/Policy-and-plans/Regional-Policy-Statement/RPS2016/Part-B/10/3/Explanation/>)

¹⁶ Operative Waikato Regional Policy Statement, Part B, 10 Heritage, Policy 10.3 Effects of development on historic and cultural heritage, Explanation (<https://www.waikatoregion.govt.nz/Council/Policy-and-plans/Regional-Policy-Statement/RPS2016/Part-B/10/3/Explanation/>)

¹⁷ ICOMOS, NZ Charter, 2010, page 1, , https://icomos.org.nz/wp-content/uploads/2016/08/NZ_Charter.pdf

the community. I consider it problematic to include the word “conservation” in Objective 7.1.1 when the objective must align with both the purpose and Section 6 of the RMA.

117. ‘Historic heritage’ is the actual terminology used and defined in the RMA and referenced in the HNZPTA. I support the alignment of the language of the district plan with the relevant legislation. While I consider that Objective 7.1.1, as notified, already achieves the higher-order planning documents’ directions, the addition of the word ‘historic’ would strengthen those linkages.
118. Accordingly, I recommend that the panel accepts Federated Farmers [680.112] and accept in part HNZPT [559.66], insofar as the submission point pertains to the introduction of the word ‘historic’ but rejects the introduction of the word ‘conserving’.

6.2.4 Recommendations

119. For the reasons above, I recommend that the Hearings Panel:

Accepts in part Christine Mardsen [980.2] - to the extent that Objective 7.1.1 is retained with amendments under other submissions.

Accepts Federated Farmers of New Zealand [680.112] and Heritage New Zealand Pouhere Taonga [FS/323.48] - to introduce the word ‘historic’ into Objective 7.1.1.

Accepts in part Heritage New Zealand Pouhere Taonga [559.66] - to the extent of introducing the word ‘historic’, but not the word ‘conserving’, into Objective 7.1.1.

6.2.5 Recommended amendments

120. The following amendments are recommended:

7.1.1 Objective

- (a) A district that acknowledges its past by recognising, identifying, protecting and promoting **historic** heritage.¹⁸

6.2.6 Section 32AA evaluation

121. The following point evaluates the recommended change under Section 32AA of the RMA.
122. The recommended amendment to Objective 7.1.1 gives effect to Part 2 (5) of the RMA, in particular the use of correct terminology and ensuring good plan administration. The recommended amendment is to provide clarification and assist with the understanding of the intent of the Objective.

Other reasonably-practicable options

123. The amendment is considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

124. The recommended amendment to Objective 7.1.1 provides clarity and linkage with the RMA and the HNZPTA to assist plan users. The amendment improves the effectiveness of the Objective.

Costs and benefits

¹⁸ [680.112] and [FS/323.48]

125. There are no additional costs, therefore costs are likely to be the same. There are benefits to the community with the addition of the word 'historic' to provide clarity and linkage with the RMA.

Risk of acting or not acting

126. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

127. The amendment to Objective 7.1.1 is considered to strengthen the notified version of the objective and its ability to appropriately achieve the purpose of the RMA.

6.3 Policy 7.1.2 - Identification

6.3.1 Introduction

128. Policy 7.1.2 – Identification outlines the approach necessary to ensure the protection of the heritage items that represent the district's heritage and cultural themes and activities.

6.3.2 Submissions

129. Four submission points and three further submission points were received relating to Policy 7.1.2.
130. The following submissions were made:

Submission point	Submitter	Summary of submission
559.67	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.2(a) – Identification, except for the amendments sought below. AND Amend Policy 7.1.2(a) – Identification as follows: (a) Identify and schedule, <u>and develop a rules framework for</u> historic heritage throughout the District that represent the heritage and cultural themes and activities of the district., <u>where the values may include: (i) Architectural; (ii) Archaeological; (iii) Cultural; (iv) Technological; (v) Scientific; (vi) Intrinsic or amenity values; and (vii) Any other significant feature.</u>
680.113	Federated Farmers of New Zealand	Amend Policy 7.1.2(a) Identification, as follows: (a) Identify and schedule historic heritage <u>identified by the Regional Heritage Forum as requiring protection from inappropriate subdivision, use and development throughout the District that represent the heritage and cultural themes and activities of the district.</u> AND Any consequential changes needed to give effect to this relief.

FS1323.49	Heritage New Zealand Pouhere Taonga	Oppose
FS1277.142	Waikato Regional Council	Oppose
942.60	Tainui o Tainui (Angeline Greensill)	Add a new clause to Policy 7.1.2 Identification as follows: Permission to be sought from Hapu/iwi before releasing locations of significant Maaori sites.
FS1035.96	Pareoranga Te Kata	Oppose
980.3	Christine Madsen	Retain Policy 7.1.2 Identification, in particular the relationship between heritage buildings, sites, structures, places and their settings including the view of the identified heritage item.

6.3.3 Analysis

131. Christine Madsen [980.3] seeks the retention of Policy 7.1.2 as notified. I recommend that this be accepted in part, subject to the amendments to the objective recommended in response to other submissions.
132. Tainui o Tainui [942.60] seeks the introduction of a new clause to the policy to provide direction for the management of information concerning the location of significant Maaori sites being released only following permission from hapuu/iwi. The submitters raised concern that without this mechanism there is the potential for both public scrutiny and disturbance - which has happened to some of the sites on the list compiled by the New Zealand Archaeological Association in the 1960s. Tainui o Tainui suggests that management of the detail about scheduled sites should be more tightly controlled, with the release of site information not occurring until a process, including input from the relevant hapuu/iwi, is in place to determine whether the release of information to individuals is appropriate. Pareoranga Te Kata [FS1035.96], while supporting the protection of Historic Heritage and Notable Trees, has a general opposition to Tainui o Tainui's submission in relation to Whaingaroa Raglan; Pareoranga Te Kata "do not revere Tainui in its Raupatu Settlement 1995". This is not a matter that can be addressed via this hearing report.
133. Policy 10.2. Relationship of Maori to taonga in the Waikato Regional Policy Statement ('WRPS') outlines the intent of the implementation of methods to protect sensitive information. Policy 10.2.1 states "Waikato Regional Council will facilitate a process to assist tangata whenua in developing and implementing systems to protect sensitive information whilst enabling landowners and local authorities to access information as appropriate".¹⁹
134. The Waikato-Tainui Environmental Plan, Chapter 16 Valuable historical items, highly prized sites, sites of significance, Objective 16.3.3 specifically focuses on the management of waahi tapu and waahi tupuna, stating that it will be policy for such sites to be identified and information stored and shared and jointly developed between relevant agencies and Waikato-Tainui.²⁰
135. The management of sites of significance under the proposed district plan is specifically addressed through Chapter 2 Tangata Whenua.

¹⁹ <https://www.waikatoregion.govt.nz/Council/Policy-and-plans/Regional-Policy-Statement/RPS2016/Part-B/10/2/Implementation-methods/1/>

²⁰ The Waikato-Tainui Environmental Plan, Chapter 16 *Valuable historical items, highly prized sites, sites of significance*, Objective 16.3.3, page 124 and 125

136. The objectives and policies in Chapter 2 provide the necessary direction to plan users of their obligations to Tangata Whenua where decisions are being made in relation to their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna and other taonga. Because of this existing policy framework I consider it unnecessary to duplicate this in Chapter 7.
137. Federated Farmers [680.113] ('FFNZ') seek relief that the scheduling of items should be reliant on the Regional Heritage Forum identifying and scheduling items to avoid unnecessary duplication and to ensure that there is consistency between the different councils in the management of heritage. Waikato Regional Council [FS/277.142] and Heritage New Zealand Pouhere Taonga [FS/323.49] oppose this submission.
138. Waikato Regional Policy Statement, Policy Section 10 – Heritage sets out, at a regional level, how the protection of historic heritage shall be undertaken. Firstly, the establishment of a Regional Heritage forum to define a regional approach to heritage protection, including the coordination of a regional heritage list. This list would be for information purposes only and would have no statutory purpose. The forum does not replace the statutory requirements of the RMA for each local authority to identify and schedule historic heritage items in their district plans. I also understand that presently no regional list has been established.
139. Therefore, WDC must achieve the purpose of the RMA, and ensure that the district's heritage is appropriately protected via the district plan. Scheduling items is the first mechanism in the identification process.
140. Heritage New Zealand Pouhere Taonga [559.67] ('HNZPT') seek the amendment of Policy 7.1.2(a) to specifically identify the heritage values used to identify and schedule historic heritage items. This submission point correlates with HNZPT's submission point 559.69.
141. Policy 7.1.2 sets the direction for the identification of historic heritage for the district, therefore I concur with HNZPT that the addition of the criteria for identification would assist plan users, and contribute to the understanding of the district's heritage.

6.3.4 Recommendations

142. For the reasons above, I recommend that the Hearings Panel:

Accept in part Christine Mardsen [980.3] - to the extent that Policy 7.1.2 is retained with amendments under other submissions.

Accept Heritage New Zealand Pouhere Taonga [559.67] - the addition of the criteria for identification.

Reject Federated Farmers [680.113], Tainui o Tainui [942.60] and Pareoranga Te Kata [FS/035.96].

Accept Waikato Regional Council [FS/277.142] and Heritage New Zealand Pouhere Taonga [FS/323.49].

6.3.5 Recommended amendments

143. The following amendments are recommended:

7.1.2 Policy – Identification²¹

²¹ [559.67]

- (a) Identify and schedule historic heritage throughout the District that represent the heritage and cultural themes and activities of the district: where the values may include:
- (i) Architectural:
 - (ii) Archaeological:
 - (iii) Cultural:
 - (iv) Technological:
 - (v) Scientific:
 - (vi) Intrinsic or amenity values; and
 - (vii) Any other significant feature.

6.3.6 Section 32AA evaluation

- I44. The following points evaluate the recommended change under Section 32AA of the RMA.
- I45. The recommended amendment to Policy 7.1.2 gives effect to Part 2 (5) of the RMA, in particular the use of correct terminology and ensuring good plan administration. Policy 7.1.2 is strengthened and better serves the implementation of the associated Objective 7.1.1. In practice, the addition of the identification criteria provides clear explanation as to why items have been identified and listed.

Effectiveness and efficiency

- I46. The recommended amendment to Policy 7.1.2 provides clarity and linkage with the RMA and the HNZPTA to assist plan users. The amendment improves the effectiveness of the policy.

Costs and benefits

- I47. There are no additional costs, therefore costs are likely to be the same. There are benefits which provide clarity and linkage with best-practice heritage assessment criteria.

Risk of acting or not acting

- I48. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy.

Decision about most appropriate option

- I49. The amendment to Policy 7.1.2 is considered to strengthen the notified version of the policy and its ability to appropriately achieve the purpose of the RMA.

6.4 Policy 7.1.3 Heritage Items

6.4.1 Introduction

150. Policy 7.1.3 – Heritage items, consisting of eight sub-policies (7.1.3(a) – 7.1.3 (h)), outlines the matters for consideration in the implementation of planning provisions.

6.4.2 Submissions

151. There are twelve submission points and three further submission points relating to Policy 7.1.3, specifically seeking the retention of Policy 7.1.3(e) as notified, or seeking amendments to the policy.
152. The following submissions were made:

Submission point	Submitter	Summary of submission
559.68	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.3(a) Heritage Items, except for the amendments sought below. AND Amend Policy 7.1.3(a) Heritage Items as follows: (a) The contribution of historic heritage to the Waikato District and its communities is maintained through the protection and conservation of its buildings, sites, structures, places and areas through <u>maintenance and repair</u> , restoring, conserving and reusing.
559.69	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.3 (b) Heritage Items, except for the amendments sought below. AND Amend Policy 7.1.3 (b) Heritage Items as follows: (b) Protect scheduled heritage items and their values from inappropriate subdivision, use and development of land where the values may include: (i) Architectural; (ii) Archaeological; (iii) Cultural; (iv) Technological; (v) Scientific; (vi) Intrinsic or amenity values; and (vii) Any other significant features.
559.70	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.3(c) Heritage Items, except for the amendments sought below. AND Add new clauses (i), (ii) and (iii) to Policy 7.1.3(c) Heritage Items as follows: (c) Relationships between heritage buildings, sites, structures, places and their settings, <u>are: (i) Not adversely affected at the time of site development, and (ii) Retained within one lot at the time of subdivision, and (iii) including the view of</u>

		<p><u>the identified heritage items are retained.</u></p> <p>AND</p> <p>Clarify the phrase “the view of the identified heritage item are retained”.</p>
559.71	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.3(d) Heritage Items
559.72	Heritage New Zealand Pouhere Taonga	<p>Amend Policy 7.1.3(e) Heritage Items as follows: (e) Protect scheduled heritage items from demolition, <u>relocation</u> or removal, unless:</p> <p>AND</p> <p>Delete Policy 7.1.3(e) (i) and (ii) Heritage Items.</p>
<i>FS1342.133</i>	<i>Federated Farmers</i>	<i>Oppose</i>
559.73	Heritage New Zealand Pouhere Taonga	<p>Retain Policy 7.1.3(f) Heritage Items, except for the amendments sought below.</p> <p>AND</p> <p>Amend Policy 7.1.3(f) Heritage Items as follows: (f) Ensure alterations <u>and additions</u> to identified heritage items and curtilage are (i) Consistent with the scale, detailing, style, materials and character of the heritage item; (ii) Do not compromise the heritage item, or have a design that competes with its heritage item, or have a design that competes with its <u>historic</u> heritage values, and (iv) Do not compromise the heritage settings of the item.</p>
559.74	Heritage New Zealand Pouhere Taonga	<p>Retain Policy 7.1.3(g) Heritage Items, except for the amendments sought below.</p> <p>AND Amend Policy 7.1.3(g) Heritage Items as follows: (g) Ensure maintenance and repairs protects the significant features <u>the heritage values of the heritage items in</u> (Schedule 30.1 Heritage Item)</p>
559.75	Heritage New Zealand Pouhere Taonga	<p>Retain Policy 7.1.3(h) Heritage Items, except for the amendments sought below.</p> <p>AND</p> <p>Amend Policy 7.1.3(h) Heritage Items as follows:</p> <p>(h) Ensure signs on scheduled heritage items are only for the purpose of identification or and interpretation, and....</p>
697.567	Waikato District Council	Amend Policy 7.1.3(f) Heritage Items as follows: Ensure alterations

		to identified <u>scheduled</u> heritage items and curtilage are:...
FSI323.52	Heritage New Zealand Pouhere Taonga	Support
680.114	Federated Farmers of New Zealand	Amend Policy 7.1.3(a) and (d) Heritage items, as follows: (a) The contribution of historic heritage to the Waikato District and its communities is maintained through the protection <u>management</u> and conservation of its buildings, sites, structures, places and areas through restoring, conserving and reusing. (d) Ensure <u>Protect</u> the relationship of identified redoubts and battlefields with their surrounds or settings from inappropriate subdivision, use and development. AND Any consequential changes needed to give effect to this relief.
FSI323.51	Heritage New Zealand Pouhere Taonga	Oppose
980.4	Christine Madsen	Retain Policy 7.1.3 Heritage items, in particular the relationship between heritage buildings, sites, structures, places and their settings including the view of the identified heritage item.
986.43	KiwiRail Holdings Limited	Retain Policy 7.1.3(e) Heritage Items as notified.

6.4.3 Analysis

153. Christine Madsen [980.4] seeks the retention of Policy 7.1.3(a) - (h) in its entirety. I recommend accepting this in part, subject to the amendments to the objective recommended in response to other submissions.
154. Heritage New Zealand Pouhere Taonga [559.68] ('HNZPT') seeks the amendment of Policy 7.1.3(a) to include the text "maintenance and repair". Federated Farmers of New Zealand [680.114] ('FFNZ') also seek amendments to Policy 7.1.3(a) by deleting the word 'protection' and replacing it with the word 'management'. If applied as requested, Policy 7.1.3(a) would read as follows:

Policy 7.1.3(a)

The contribution of historic heritage to the Waikato District and its communities is maintained through the ~~protection~~ management and conservation of its buildings, sites, structures, places and areas through maintenance and repair, restoring, conserving and reusing.

155. Maintenance and repair are implied with the existing words (restoring, conserving and reusing) and maintenance and repair are specifically used in Policy 7.1.3(g). Historic heritage is identified as a physical resource that is to be sustainably managed. The wording used in sections 5 and 6 of the RMA explicitly states that it is the protection, rather than management of historic heritage, that is to occur to achieve the purpose of the RMA. I consider that the proposed changes are not warranted.
156. Heritage New Zealand Pouhere Taonga [559.69] ('HNZPT'), while seeking the retention of Policy 7.1.3(b), requests the deletion of the list of values (i) – (vii) as notified. This submission point correlates with their submission point 559.67, where HNZPT seek the addition of these values to Policy 7.1.2. I consider the relief sought to add these values into Policy 7.1.2 as valid, because this policy is about the identification and scheduling of heritage items. However, as Policy 7.1.3 is about the protection of heritage items, I consider retaining these values in this policy would be beneficial to assist plan users in determining what effects should specifically be considered. No change is recommended to Policy 7.1.3(b).
157. Heritage New Zealand Pouhere Taonga [559.70] ('HNZPT') seeks the addition of clauses to Policy 7.1.3(c), and requests clarification of the phrase "the view of the identified heritage item are retained", as it would assist plan users. The additional clauses proposed by HNZPT are:

7.1.3

(c) *Relationships between heritage buildings, sites, structures, places and their settings are:*

- (i) *Not adversely affected at the time of site development; and*
- (ii) *Retained within one lot at the time of subdivision; and*
- (iii) *Including the view of the identified heritage item, are retained.*

158. While I cannot confirm the specific reasoning for the term "including the view of the identified heritage item", the discretion for the site development rules pertaining to historic heritage under the individual zones is restricted to the relationship of the heritage item with the setting, including the area between the front of the heritage item and the road.
159. The additional clauses proposed by HNZPT link their submissions to the rule framework relating to the setting and the subdivision of a heritage item. The extent of setting for each of the scheduled heritage items was considered and identified by Dr McEwan through her assessment work to determine scheduling. The loss of setting can have adverse effects on significant heritage values, and this is already captured through the wording of Policy 7.1.3(c) as notified, that correlates with both setback and site development rules for historic heritage in the different zones. Therefore, I consider that the proposed changes are not warranted.
160. Heritage New Zealand Pouhere Taonga [559.71] ('HNZPT') seeks the retention of Policy 7.1.3(d), stating that this policy "gives effect to the need to provide appropriate protection to historic heritage as required under s.6 of the RMA". The second part of the relief sought by Federated Farmers [680.114] ('FFNZ') is to replace the word 'protect' with 'ensure' in the policy:

Ensure ~~Protect~~ the relationship of identified redoubts and battlefields with their surrounds or settings from inappropriate subdivision, use and development.

161. Policy 7.1.3(d) provides direction on the need to protect the surroundings of identified redoubts and battlefields. The context or setting contributes to the heritage significance of these - in the case of the battlefields little physical evidence remains. Therefore, the visual links with remaining redoubts and other natural forms like the Waikato River are important markers to assist in retaining the link between the surroundings and the historic events. To

protect these settings, battlefield viewshafts are notated on the planning map for Meremere (Planning Map 08.1), with corresponding rules in the Residential, Rural and Heavy Industrial zones. These rules apply height limits to ensure that the views of and from the Whangamarino Redoubt and Meremere Paa are not hindered.

- I 62. Historic heritage is a physical resource that is to be sustainably managed. The wording used in sections 5 and 6 of the RMA explicitly states that the protection, rather than management of historic heritage, is required to achieve the purpose of the RMA. Therefore, although the rule framework ensures the protection of the views, it is important that the policy gives clear direction that these areas are to be protected. The requested change would not assist in good plan administration.
- I 63. KiwiRail [986.43] seek the retention of Policy 7.1.3(e) as notified, as the submitter supports the identification and protection of historic heritage (built and archaeological), with the removal of heritage items being acceptable under certain circumstances. KiwiRail consider that Policy 7.1.3 provides for an assessment of the reasons for the removal.
- I 64. Heritage New Zealand Pouhere Taonga [559.72] ('HNZPT') seeks an amendment to Policy 7.1.3(e) to insert the word 'relocation' and the deletion of (i) and (ii) of the policy as follows:
- Policy 7.1.3(e) Protect scheduled heritage items from demolition, relocation or removal, ~~unless:~~ (i) ~~The condition of an item poses a serious risk to human life, and (ii) Reasonable alternatives have been investigated and considered, including restoration or adaptation, reuse or relocation, and these alternatives have been found to be impracticable or uneconomic.~~*
- I 65. Federated Farmers of New Zealand [FS/342.133] ('FFNZ') have further submitted on this submission point by HNZPT, opposing the relief sought; stating that there is a need for practicality to be able to be applied.
- I 66. HNZPT correctly identifies that the zone rules for heritage items also include relocation; and it is important that the policy provides the correct guidance for relocation, as it presently does for demolition and removal. (Noting that demolition, removal, and relocation are three different actions.)
- I 67. Section 6 of the RMA explicitly states that it is the protection, rather than management of historic heritage, that is required to achieve the purpose of the RMA. While I acknowledge FFNZ's opinion that practicality needs to be applied, I consider that those matters should be tested on a case-by-case basis through the preparation and assessment of a resource consent application in accordance with the RMA. I recommend the deletion of clause (i) and (ii) in Policy 7.1.3(e).
- I 68. Heritage New Zealand Pouhere Taonga [559.73] ('HNZPT') and Waikato District Council [697.567] ('WDC') both seek amendments to the text of Policy 7.1.3(f) as notified. Heritage New Zealand Pouhere Taonga [FS/323.52] supports the relief sought by Waikato District Council. Both organisations seek amendments to provide clarity that Policy 7.1.3(f) applies to the heritage items identified in Schedule 30.1:

7.1.3(f) Ensure alterations and additions to ~~identified~~ scheduled heritage items and curtilage are:

- (i) Consistent with the scale, detailing, style, materials and character of the heritage item;*
- (ii) Do not compromise the heritage item, or have a design that competes with its heritage item, or have a design that competes with its historic heritage values, and*
- (iii) Do not compromise the heritage settings of the item.*

169. I consider that the amendments proposed by HNZPT and WDC provide clarity of direction for plan users, consistency with the rule framework, and good plan administration.
170. Heritage New Zealand Pouhere Taonga [559.74] ('HNZPT') seeks the amendment to Policy 7.1.3(g) to provide clarity as to the extent of protection being afforded the scheduled heritage items:
- 7.1.3(g) Ensure maintenance and repairs ~~protects the heritage values of the heritage items the significant features~~ identified in (Schedule 30.1 Heritage Item)*
171. The amendment sought by HNZPT links with their submission points relating to the use of the term 'significant features' in both the historic heritage zone rules and applied in Schedule 30.1.
172. Dr McEwan has advised that the use of 'significant features' as notified is problematic because the individual heritage records do not specify heritage items' significant features for protection; her assessments have followed best practice of determining significant heritage values by using the VRPS criteria.²²
173. I consider that the amendment proposed by HNZPT provides clarity in direction for plan users, consistency with the rule framework, and applies best practice in the protection of historic heritage. However, I would suggest the following wording to ensure consistency with the language of Policy 7.1.3:
- Ensure maintenance and repairs ~~protects the heritage values of the scheduled heritage items~~ protect the significant features identified in (Schedule 30.1 Heritage Item)*
174. Heritage New Zealand Pouhere Taonga [559.75] ('HNZPT') seeks the amendment of Policy 7.1.3(h) by replacing the word 'and' between identification and interpretation with the word 'or'. HNZPT is concerned that not all heritage buildings may have the capacity to accommodate both identification and interpretation signage.
175. As notified, Policy 7.1.3(h) states:
- Ensure signs on scheduled heritage items are only for the purpose of identification and interpretation, and:*
- (i) Do not detract from the heritage values, and*
- (ii) Maintain the heritage item as the primary visual element.*
176. The signage rules under each zone do not permit signage to be attached to a heritage item (Schedule 30.1), except for the purpose of identification and interpretation; the same provisions are applied to both Notable Trees (Schedule 30.2) and Maaori Sites of Significance (Schedule 30.3).²³
177. I consider that the proposed change is not warranted - clauses (i) and (ii) provide clarity on size and purpose.

6.4.4 Recommendations

178. For the reasons above, I recommend that the Hearings Panel:
- Accept in part** Christine Mardsen [980.4] - Retention of Policy 7.1.3

²² Policy 10 - Heritage, Waikato Regional Policy Statement

²³ HNZPT has submission points to the signage rule in each zone; these submission points being assessment individually under each zone.

Reject Heritage New Zealand Pouhere Taonga [559.68] and Federated Farmers of New Zealand [680.114]; and **Accept in part** Heritage New Zealand Pouhere Taonga [FS/323.51] - no change to 7.1.3 (a)

Reject: Heritage New Zealand Pouhere Taonga [559.69] - no change to Policy 7.1.3(b)

Reject Heritage New Zealand Pouhere Taonga [559.70] - amendment to Policy 7.1.3(c)

Accept Heritage New Zealand Pouhere Taonga [559.71] - no change to Policy 7.1.3(d)

Reject Federated Farmers [680.114] - no change to Policy 7.1.3(d)

Reject KiwiRail [986.43] - Policy 7.1.3(e)

Accept Heritage New Zealand Pouhere Taonga [559.72]; **Reject** Federated Farmers [FS/342.133] - amendments to Policy 7.1.3(e)

Accept Heritage New Zealand Pouhere Taonga [559.73], Waikato District Council [697.567] and Heritage New Zealand Pouhere Taonga [FS/323.52] - amendments to Policy 7.1.3(f)

Accept Heritage New Zealand Pouhere Taonga [559.74] - amendments to Policy 7.1.3(g)

Reject Heritage New Zealand Pouhere Taonga [559.75] - no change to Policy 7.1.3(h).

6.4.5 Recommended amendments

179. The following amendments are recommended:

7.1.3 Policy – Heritage items

- (a) The contribution of historic heritage to the Waikato District and its communities is maintained through the protection and conservation of its buildings, sites, structures, places and areas through restoring, conserving and reusing.
- (b) Protect scheduled heritage items and their values from inappropriate subdivision, use and development of land where the values may include:
 - (i) Architectural;
 - (ii) Archaeological;
 - (iii) Cultural;
 - (iv) Technological;
 - (v) Scientific;
 - (vi) Intrinsic or amenity values; and
 - (vii) Any other significant features.
- (c) Relationships between heritage buildings, sites, structures, places and their settings, including the view of the identified heritage item, are retained.
- (d) Protect the relationship of identified redoubts and battlefields with their surrounds or settings from inappropriate subdivision, use and development.
- (e) Protect scheduled heritage items from demolition, relocation or removal. ~~unless:~~
 - ~~(i) The condition of an item poses a serious risk to human life, and~~
 - ~~(ii) Reasonable alternatives have been investigated and considered, including restoration or adaptation, reuse or relocation, and these alternatives have been found to be impracticable or uneconomic.~~²⁴
- (f) Ensure alterations and additions to ~~identified scheduled~~ heritage items and curtilage are:

²⁴ [559.72]

- (i) Consistent with the scale, detailing, style, materials and character of the heritage item;
- (ii) Retain cultural and heritage values;
- (iii) Do not compromise the heritage item, or have a design that competes with its historic heritage values; and
- (iv) Do not compromise the heritage setting of the item.²⁵
- (g) Ensure maintenance and repairs protect the heritage values of the scheduled heritage items. protect the significant features identified in (Schedule 30.1 Heritage Item)²⁶
- (h) Ensure signs on scheduled heritage items are only for the purposes of identification and interpretation, and:
 - (i) Do not detract from the heritage values, and
 - (ii) Maintain the heritage item as the primary visual element.

6.4.6 Section 32AA evaluation

- I80. The following points evaluate the recommended change under Section 32AA of the RMA.
- I81. The recommended amendments to Policy 7.1.3 give effect to Part 2 (5) of the RMA, in particular the use of correct terminology and ensuring good plan administration. Policy 7.1.3 is strengthened and better serves the implementation of the associated Objective 7.1.1.

Effectiveness and efficiency

- I82. The recommended amendment to Policy 7.1.3 provides clarity and linkage with the RMA and the HNZPTA to assist plan users. The amendment improves the effectiveness of the policy.

Costs and benefits

- I83. The recommended amendments to Policy 7.1.3 (e) remove a set of exemptions. Doing so does not change the requirement for a resource consent to test the effects that heritage loss, through demolition, relocation or removal, will have. While there are no additional costs in considering the need to apply for a resource consent, it is acknowledged that there could be costs if consent for demolition, removal or relocation were not granted, as the site would continue to be occupied by a heritage item that could be left to become derelict.

Risk of acting or not acting

- I84. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

- I85. The amendment to Policy 7.1.3 is considered to strengthen the notified version of the policy and its ability to appropriately achieve the purpose of the RMA.

6.5 Policy 7.1.4 - Matangi and Huntly Heritage Precinct

6.5.1 Introduction

- I86. Policy 7.1.4. sets the policy framework for the Matangi and Huntly Heritage Precincts.

²⁵ [559.73], [697.567] and [F51323.52]

²⁶ [559.74]

6.5.2 Submissions

187. There are five submission points and one further submission point relating to Policy 7.1.4 - supporting the policy framework for the Matangi and Huntly Heritage Precincts seeking the addition of a Heritage Precinct for Raglan and the reinstatement of the Heritage Precinct for Rangiriri.
188. The following submissions were made:

Submission point	Submitter	Summary of submission
546.3	Lynne Adrienne	Amend Policy 7.1.4 Matangi and Huntly Heritage Precinct, to include the redesign of new buildings and structures and external alterations or additions in Raglan.
FS1276.231	Whaingaroa Environmental Defence Inc. Society	Support
559.76	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.4(a) Matangi and Huntly Heritage precinct, except for amendments sought below. AND Amend Policy 7.1.4(a) Matangi and Huntly Heritage Precinct as follows: <ul style="list-style-type: none"> (a) Ensure the design of the new buildings and structures and external alterations or additional to buildings are compatible with the settings, detailing, style, materials and character of the precinct and protect heritage values within: (i) Matangi Heritage Precinct. (ii) Huntly heritage precinct (iii) <u>Rangiriri Heritage precinct.</u> (b) AND (c) Amend the planning maps to include the Rangiriri Heritage Precinct guidelines, with additional information to protect the relationship of the cemetery to the village.
780.18	Whaingaroa Environmental Defence Incorporation Society	Add a new clause (iii) to Policy 7.1.4 Matangi and Huntly Heritage precinct for Raglan and similar to those for Matangi and Huntly.
825.18	John Lawson	Add a new clause (iii) to Policy 7.1.4 Matangi and Huntly Heritage precinct for Raglan (similar to those for Matangi and Huntly (i) and ii)).
831.27	Raglan Naturally	Add to Policy 7.1.4 Matangi and Huntly Heritage precinct a new clause (ii) Raglan Heritage Precinct with policies similar to those for the Matangi and Huntly Heritage Precinct.

6.5.3 Analysis

- 189. Lynne Adrienne [546.3], Whaingaroa Environmental Defence Incorporation Society [780.18], John Lawson [825.18] and Raglan Naturally [831.27] seek the amendment to Policy 7.1.4 Matangi and Huntly Heritage Precinct to include Raglan. Whaingaroa Environmental Defence Incorporation Society [FS/276.231] supports the submission by Lynne Adrienne [546.3].
- 190. Heritage New Zealand Pouhere Taonga [559.76] supports the policy framework for precincts in both Huntly and Matangi, and seeks the addition of a heritage precinct for Rangiriri.
- 191. Council's heritage expert, Dr Ann McEwan, has reviewed the validity of applying heritage precincts over Raglan and Rangiriri, and I defer to her expertise for the following recommendations.²⁷
- 192. As notified, the proposed district plan presently addresses Raglan's town centre character through Appendix 10.1 Raglan Town Centre Character Statement. The matter of defining the character of Raglan and how that should be managed was considered in Hearing 16 – Raglan. To address submissions on character for that hearing, Council engaged Isthmus to undertake an assessment of the character of Raglan. This work is appended to the section 42a Report for Hearing 16: Raglan. Accordingly, I defer to the recommendations set out for section 4 The Character of Raglan, pages 11-19 of the s42a report; there should be no changes to Policy 7.1.4.
- 193. Dr McEwan advised that in her opinion Appendix 10.1 Raglan Town Centre Character Statement already captures the matters that a precinct would, and in her opinion there was no necessity for the protection of heritage values, as the sites with heritage significance are listed in Schedule 30.1.
- 194. Dr McEwan highlights that the existing heritage precinct design guide for Rangiriri in the Operative District Plan is in reality a village design guide concerned with historic character and amenity predicated upon one single scheduled heritage building - the Rangiriri Tavern (Operative District Plan, Schedule C1 Historic Heritage Items, #15; and Proposed District Plan, Schedule 30.1 Historic Heritage Items ID# 50). In accordance with Dr McEwan's 2017 recommendation, the Rangiriri Maori War and Early Settlers Cemetery Arch & Boundary Wall (1926) (Proposed District Plan, Schedule 30.1 Historic Heritage Items ID# 49) was scheduled. However, Dr McEwan has advised that the existence of these two heritage items should not constitute the basis for a heritage precinct.
- 195. I defer to Dr McEwan's advice and do not recommend changes to Policy 7.1.4.

6.5.4 Recommendations

- 196. For the reasons given above, I recommend that the Hearings Panel:

Reject Lynne Adrienne [546.3], Whaingaroa Environmental Defence Incorporation Society [780.18], John Lawson [825.18], Raglan Naturally [831.27] and Whaingaroa Environmental Defence Incorporation Society [FS/276.231] - a Raglan Heritage Precinct.

Accept in part Heritage New Zealand Pouhere Taonga [559.76] to the extent of the policy framework for precincts in both Huntly and Matangi, but not their relief to provide for a Rangiriri Heritage Precinct.

²⁷ McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submission [115.1]

6.5.5 Recommended amendments

197. No amendments are required to Policy 7.1.4.

6.5.6 Section 32AA evaluation

198. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

6.6 Policy 7.1.5 Subdivision

6.6.1 Introduction

199. Policy 7.1.5. sets the direction for the subdivision of sites that contain historic heritage.

6.6.2 Submissions

200. The following submission was made:

Submission point	Submitter	Summary of submission
559.77	Heritage New Zealand Pouhere Taonga	Retain Policy 7.1.5 Subdivision, except for the amendments sought below. AND Amend Policy 7.1.5(a) Subdivision as follows: (a) Subdivision and development <u>should retain the heritage item or features and their setting within one lot</u> within an identified precinct does not compromise and are sympathetic to the existing historic heritage items or features.

6.6.3 Analysis

201. Heritage New Zealand Pouhere Taonga [559.77] ('HNZPT') is concerned that poor subdivision outcomes have the potential to adversely impact on the heritage values of scheduled items. HNZPT request that a heritage item and its identified setting should be retained within one lot if subdivision occurs.

202. As notified, Policy 7.1.5 requires that subdivision and development do not compromise, and are sympathetic to, the existing historic heritage items:

7.1.5 Policy – Subdivision (a) Subdivision and development within an identified precinct do not compromise and are sympathetic to the existing historic heritage items or features.

203. Subdivision sets the long-term scene for future development, the intensification of land, and how existing features are managed. The protection of existing features, such as scheduled heritage items, Maaori sites and areas of significance, notable trees and natural areas must be addressed. Therefore, the subdivision of a site containing a scheduled heritage item requires specific guidance to ensure the sustainable management of both the heritage and land resource. Therefore, the policy framework is critical to direct the management of the subdivision rules under each zone to ensure the protection of both the item and its setting.

204. It is important that a heritage item's heritage values are not diminished through poor subdivision boundaries which do not take into consideration the item's identified heritage setting and how the extent of setting relates to the item's heritage significance.
205. Subdivision is a specific matter of consideration set out in s.6(f) of the RMA, and the existing wording of Policy 7.1.5 does achieve this - I consider it is attempting to achieve the same outcome as sought by the HNZPT. However, I concur with HNZPT that, as notified, the policy does not place the emphasis on the protection of the heritage item and associated heritage values. I consider that the present wording may also cause confusion as to how the policy should be applied, especially when considering a non-complying subdivision with the use of the terms 'precinct', 'do not compromise' and 'are sympathetic'.
206. HNZPT's proposed focus on the heritage item and setting "within one lot" allows the sustainable management of both the heritage and land resources, and achieves the purpose and meets the requirements of both sections 6(e) and 6(f) of the RMA in preparing, assessing and consenting subdivision proposals. However, I consider that the policy needs refining to ensure a greater holistic focus on the heritage item and its setting by removing the reference to 'features', as proposed by HNZPT. Dr McEwan has advised that the heritage record for each item does not identify specific features; instead, the best practice approach of assessing and identifying an item's heritage values was applied. Therefore, in removing the reference to 'significant features', and replacing it with reference to the heritage records will result in greater clarity for plan users in understanding and addressing an item's specific heritage values and its setting.
207. Dr McEwan advised that the setting of a heritage item is mapped on each Heritage Report so as to identify the area that constitutes the 'surroundings' of each scheduled item. This then ties in to the RMA definition of historic heritage and also identifies the setting in which development, subdivision and use may or may not be deemed appropriate according to the provisions in the plan. So if, for example, subdivision of the setting were to be proposed, that would need to be considered in regard to its effect on the heritage values of the scheduled item. Similarly, if the heritage item needs to be relocated – for flood protection purposes, for example - there would be a lesser effect if it were moved within the setting than if the item were relocated to another part of a larger property or moved to another property entirely.
208. The setting is determined according to whether the land parcel as a whole represents the surroundings of the heritage item – which is typically the case for a house on a suburban lot, or a commercial building in a main street environment – or if a portion of the parcel (e.g. the garden setting of a farmhouse within a large rural property) is more appropriately identified as the surroundings.
209. Therefore, I recommend amending the proposed wording as follows:
- 7.1.5(a) Subdivision and development should retain the heritage item or features and its setting (as identified in the Heritage Records, Schedule 30.1 Heritage Items) within one lot ~~within an identified precinct does not compromise and are sympathetic to the existing historic heritage items or features.~~

6.6.4 Recommendations

210. For the reasons above, I recommend that the Hearings Panel:

Accept Heritage New Zealand Pouhere Taonga [559.77] - to the extent that Policy 7.1.5 is amended.

6.6.5 Recommended amendments

211. The following amendments are recommended:

Policy 7.1.5(a)²⁸ ~~Subdivision and development should retain the heritage item and its setting (as identified in the Heritage Records, Schedule 30.1 Heritage Items) within one lot within an identified precinct does not compromise and are sympathetic to the existing historic heritage items or features.~~

6.6.6 Section 32AA evaluation

212. The following points evaluate the recommended change under Section 32AA of the RMA.

213. The recommended amendment to Policy 7.1.5 gives effect to Part 2 (5) of the RMA, in particular the use of correct terminology and ensuring good plan administration. Policy 7.1.5 is strengthened and better serves the implementation of the associated Objective 7.1.1.

Effectiveness and efficiency

214. The recommended amendment to Policy 7.1.5 provides clarity to assist plan users. The amendment improves the effectiveness of the policy.

Costs and benefits

215. While costs are likely to be the same, the ability to gain higher densities on land containing a heritage item may be reduced due to the extent of the setting. There are benefits which provide clarity and linkage with best practice heritage protection.

Risk of acting or not acting

216. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

217. The amendment to Policy 7.1.5 is considered to strengthen the notified version of the policy and its ability to appropriately achieve the purpose of the RMA.

6.7 Objective 7.1.6 - Notable Trees

6.7.1 Introduction

218. Objective 7.1.6. sets the direction for the recognition of notable trees and the contribution that they make to the community.

6.7.2 Submissions

219. The following submission was made:

Submission point	Submitter	Summary of submission
942.61	Tainui o Tainui (Angeline Greensill)	Retain Policy 7.1.6 Notable Trees
FS1035.97	Pareoranga Te Kata	Oppose

²⁸ [559.77]

6.7.3 Analysis

220. Tainui o Tainui [942.61] supports the retention of Objective 7.1.6 Notable Trees. Tainui o Tainui's submission point is opposed by Pareoranga Te Kata [FS/035.97]. This further submission, while supporting the protection of Historic Heritage and Notable Trees, has a general opposition to Tainui o Tainui's submission in relation to Whaingaroa Raglan; Pareoranga Te Kata "do not revere Tainui in its Raupatu Settlement 1995". This is not a matter that can be addressed via this hearing report.

221. As the relief is for the retention of the policy, no action is required.

6.7.4 Recommendations

222. For the reason outlined above, I recommend that the Hearings Panel:

Accept Tainui o Tainui [942.61] - retention of Objective 7.1.6 Notable Trees

Reject Pareoranga Te Kata [FS/035.97].

6.7.5 Recommended amendments

223. No amendments are required to Objective 7.1.6.

6.7.6 Section 32AA evaluation

224. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

6.8 7.1.7 Policy - Identification

6.8.1 Introduction

225. Policy 7.1.7. outlines the process undertaken to schedule a tree, and groups of trees for protection.

6.8.2 Submissions

226. The following submission was made:

Submission point	Submitter	Summary of submission
680.115	Federated Farmers of New Zealand	Amend Policy 7.1.7 Identification, as follows: (a) Notable trees should be identified and scheduled in Schedule 30.2 in a manner that recognises the important values of each tree. Identify and schedule trees, including groups of trees and assess them for significance and/or notable values. AND Any consequential changes needed to give effect to this relief.

6.8.3 Analysis

227. Federated Farmers of New Zealand [680.115] ('FFNZ') seeks the deletion of the existing wording of Policy 7.1.7, and insertion of their proposed wording to ensure that there is no

confusion over what type of tree is to be protected. They are concerned that with the existing wording “any old tree” could be deemed to be included under this policy direction.

228. Although it is not stated in either the district plan or the section 32 - Historic Heritage report, Council staff have advised me that scheduled trees were assessed using the Standard Tree Evaluation Method (‘STEM’).²⁹ This method is nationally accepted for the evaluation of notable trees and determination of significance to warrant scheduling in district plans.³⁰
229. Because of how Policy 7.1.7 is presently worded, it is understandable that FFNZ have raised concern over how that could be translated into a rule framework and applied. Particularly, as the existing rule framework does not identify the criteria used to determine scheduling or what should be used to assess a resource consent, with reliance being placed on the technical expertise of an arborist.
230. It is my opinion that it is not the policy that is at issue, rather that the district plan is silent on how the identified trees in Schedule 30.2 were assessed to provide a benchmark as to any further assessment work undertaken to determine a tree’s status through a resource consent; or the assessment to be undertaken to determine if future trees should be added to Schedule 30.2 under a separate RMA Schedule 1 process.
231. Therefore, although I do not consider it necessary to amend the wording of Policy 7.1.7, the addition of explanatory information is recommended to be included into Schedule 30.2 Notable Trees to identify how the STEM method has been applied. I consider this addresses FFNZ’s concerns.

6.8.4 Recommendations

232. For the reason outlined above, I recommend that the Hearings Panel:

Accept in part Federated Farmers of New Zealand [680.115] - clarification of intent of 7.1.7 Policy - Identification.

6.8.5 Recommended amendments

233. The following amendments are recommended:

Schedule 30.2 Notable Trees³¹

Criteria for Listing

In order for all trees to be assessed on an equal basis and against objective criteria, the New Zealand Standard Tree Evaluation Method (STEM) has been adopted.

Three major aspects of tree character are identified, each being divided into units that can be separately valued against a hypothetical perfect score of 30 points for each unit, as follows.

- Condition evaluation:
 - Form
 - Occurrence
 - Vigour and vitality
 - Function
 - Age(years)
 - Stature (m)

²⁹ <https://www.notabletrees.org.nz/stem>

³⁰ <https://www.notabletrees.org.nz/current-stem-users>

³¹ [680.115]

- Amenity evaluation:
 - Public accessibility
 - Visibility(from 1 kilometre)
 - Proximity
 - Role
 - Climate
- Notable evaluation:
 - Stature:
 - Feature
 - Form
 - Historic:
 - Age 100+
 - Association
 - Commemoration
 - Remnant
 - Relic
 - Scientific:
 - Source
 - Rarity
 - Endangered
- The threshold for determining if trees will be classed as notable trees is a minimum of 160 points. These trees are considered to be healthy and stable and have some outstanding features that contribute to the amenity and heritage of a neighbourhood and make a positive impact on the district.

6.8.6 Section 32AA evaluation

Other reasonably-practicable options

234. The additional information in Schedule 30.2 Notable Trees is considered to be the more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

235. The recommended amendment improves the efficiency and effectiveness of the district plan in implementing the provisions and provides suitable guidance to plan users for the assessment method used in scheduling notable trees in the Plan.

Costs and benefits

236. There are no additional costs, and therefore costs are likely to be the same. There are benefits for the environment with the addition of the explanation in Schedule 30.2 Notable Trees, which provides clarity about how the trees are deemed significant. Other benefits are clearer guidance to plan users.

Risk of acting or not acting

237. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the definitions.

6.9 7.1.8 Policy – Tree Protection

6.9.1 Introduction

238. Policy 7.1.8. outlines when removal of notable trees would be acceptable, and that works around notable trees should be undertaken in a manner so as not to affect their form or health.

6.9.2 Submissions

239. Four submissions points and three further submissions have been received on Policy 7.1.8 – Tree Protection. All seek amendments to the policy.
240. The following submissions were made:

Submission point	Submitter	Summary of submission
567.10	Ngati Tamaoho Trust	Add a new clause (c) to Policy 7.1.8 – Tree protection, as follows: <u>(c) trees over 200 years old unless in poor health are automatically protected.</u>
FS1342.141	Federated Farmers	<i>Oppose</i>
680.116	Federated Farmers of New Zealand	Amend Policy 7.1.8(a) Tree Protection, as follows: (a) Ensure removal of a notable tree listed in (Schedule 30.2 Notable Trees) only occurs if the tree is in an unsafe condition and/or there is a serious risk to human life or property. (b) Ensure land use or work within the dripline of a notable tree listed in (Schedule 30.2 Notable Trees) does not affect the form or health of the tree. <u>(c) Enable removal of the protective tree status of the values associated with the protected tree have deteriorated. (d) Enable removal of a notable tree on private property if the reasonable use and enjoyment of the property and surrounds is compromised.</u> AND Any consequential changes needed to give effect to this relief.
798.12	Ngati Te Ata	Add a new clause (c) to Policy 7.1.8 Tree Protection as follows: <u>(c) trees over 200 years old unless in poor health are automatically protected.</u> AND Add “trees over 200 years old unless in poor health are automatically protected” to all section of the Proposed District Plan where “notable trees” are referred to including Rule 16.2.6 – Notable Trees.
831.70	Raglan Naturally	Retain Policy 7.1.8 Tree Protection

		AND Amend the Proposed District Plan to protect existing large trees and not just those listed in Schedule 30.2.
FS1342.242	Federated Farmers	Oppose
FS1276.54	Whaingaroa Environmental Defence Inc. Society	Support

6.9.3 Analysis

241. Ngati Tamaoho Trust [567.10] and Ngati Te Ata [798.12] both seek the inclusion of an additional clause for the protection of any tree that is over 200 years old, except if it is in poor health. Raglan Naturally [831.70] seek an amendment to Policy 7.1.8 to protect all existing large trees, not just those identified in Schedule 30.2. This submission point is supported by Whaingaroa Environmental Defence Inc. Society [FS1276.54]. Federated Farmers of New Zealand [FS1342.141] and [FS1342.242] oppose the submissions from Ngati Tamaoho Trust and Raglan Naturally.
242. Federated Farmers of New Zealand [680.116] ('FFNZ') seek the introduction of two new clauses to outline that scheduled trees can be removed if the values against which they were originally assessed have deteriorated, and the removal of trees is enabled on private property if the reasonable use and enjoyment of the property and surrounds is compromised.
243. Section 76 of the RMA set out the matters a territorial authority may consider in carrying out its functions under the Act, including the management of trees. In relation to trees, Sections 76(4A), 76(4B), 76(4C) and 76(4D) outline the parameters under which protection can be applied. Specifically, trees must be identified individually or as a group (e.g. a cluster, grove or line of trees) via a list in the district plan and notated on the planning maps. No trees can be protected under a general approach such as by age or size, and regardless of whether the site where those trees are located is also clad in bush or other vegetation.
244. Accordingly, although the submissions by Ngati Tamaoho Trust, Ngati Te Ata and Raglan Naturally are relevant for the overall amenity of the district, the direction set via the Act does not intend the implementation of blanket controls over the management of trees in general. This was expressed most recently in case law concerning the removal of a large, and very old Kauri tree under the Auckland Unitary Plan.³² The Court stated: "bound by the laws which are passed by parliament which saw an amendment to the RMA s76(4A) and (4B) which removed the ability for a council to have general blanket protection of trees within urban areas and instead required that particular and specific protections be put in place in a District Plan".³³
245. Therefore, to ensure that the district plan accords with the directions of the legislation, as with the Maehl v Lenihan case, WDC cannot apply provisions that result in the blanket protection of trees.

³² NZEnvC-2019-058-Maehl-v-Lenihan

<https://www.environmentcourt.govt.nz/assets/Documents/Publications/2019-NZEnvC-058-Maehl-v-Lenihan.pdf>

³³ NZEnvC-2019-058-Maehl-v-Lenihan, paragraphs 12, 13 and 14, page 4.; and paragraphs 17, 18 and 19, page 5.

246. An outcome of the relief sought by FFNZ would be to move the focus from the protection of a notable tree on a site to ensuring that the tree would not compromise the enjoyment of the property on which it is located. FFNZ proposed the following amendments:

Policy 7.1.8 Tree Protection

- (a) *Ensure removal of a notable tree listed in (Schedule 30.2 Notable Trees) ~~only occurs~~ if the tree is in an unsafe condition and/or there is a serious risk to human life or property.*
- (b) *Ensure land use or work within the dripline of a notable tree listed in (Schedule 30.2 Notable Trees) does not affect the form or health of the tree.*
- (c) *Enable removal of the protective tree status of the values associated with the protected tree have deteriorated.*
- (d) *Enable removal of a notable tree on private property if the reasonable use and enjoyment of the property and surrounds is compromised.*

247. I consider that the outcome of the proposed wording of 7.1.8 by FFNZ would undermine the policy and Objective 7.1.6. While the policy framework set out in Policy 7.1.8 acknowledges the situations where a notable tree may need to be removed, the strong focus remains on retention, unless the tree is “in an unsafe condition and/or there is a serious risk to human life or property”; and that all works are undertaken only if the impacts of those works do not affect the “form or health of the tree”.

248. As a result, I recommend that Policy 7.1.8 be retained as notified.

6.9.4 Recommendations

249. For the reason outlined above, I recommend that the Hearings Panel:

Reject Ngati Tamaoho Trust [567.10], Ngati Te Ata [798.12], Federated Farmers of New Zealand [680.116], Raglan Naturally [831.70] and Whaingaroa Environmental Defence Inc. Society [FS/276.54] - retention of Policy 7.1.8 as notified.

Accept in part Federated Farmers of New Zealand [FS/342.141] and [FS/342.242] - retention of Policy 7.1.8 as notified.

6.9.5 Recommended amendments

250. No amendments are required to Policy 7.1.8.

6.9.6 Section 32AA evaluation

251. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

6.10 Policy 7.1.9 – Tree Maintenance

6.10.1 Introduction

252. Policy 7.1.9 Tree Maintenance sets out the reasons for managing the maintenance and management of the notable trees.

6.10.2 Submissions

253. The following submissions were made:

Submission point	Submitter	Summary of submission

942.62	Tainui o Tainui (Angeline Greensill)	Supports Policy 7.1.9 Tree Maintenance.
FS1035.98	Pareoranga Te Kata	Oppose
680.117	Federated Farmers of New Zealand	Amend Policy 7.1.9 Tree Maintenance, as follows (a) Enable the maintenance and management of a notable tree for the purposes of: (i) Ensuring the continuing health, structural integrity and amenity value of the tree; <u>OR</u> and (ii) The reasonable use and enjoyment of the property and surrounds, AND Any consequential changes needed to give effect to this relief.

6.10.3 Analysis

254. Tainui o Tainui [942.62] supports Policy 7.1.9 Tree Maintenance. Pareoranga Te Kata [FS1035.98], opposes the submission by Tainui o Tainui. This further submission, while supporting the protection of Historic Heritage and Notable Trees has a general opposition to Tainui o Tainui's submission in relation to Whaingaroa Raglan; Pareoranga Te Kata "do not revere Tainui in its Raupatu Settlement 1995". This is not a matter that can be addressed via this hearing report.
255. Federated Farmers of New Zealand [680.117] ('FFNZ') seeks the deletion of the word 'and' between (i) and (ii) to replace it with an 'or'. By their reasoning, (i) and (ii) are not mutually inclusive, and the importance of owners having the enjoyment of their private properties needs to be acknowledged.
256. I consider that the outcome of the proposed wording of 7.1.9 by FFNZ would undermine the policy and Objective 7.1.6.:
- 7.1.9 - Policy Tree maintenance*
 (a) *Enable the maintenance and management of a notable tree for the purposes of:*
 (i) *Ensuring the continuing health, structural integrity and amenity value of the tree; ~~and~~ or*
 (ii) *The reasonable use and enjoyment of the property and surrounds.*
257. Applying an 'or' instead of the 'and' introduces an option for considering effects and moves the weighting from that of protecting the tree to considering the benefits of the property above those of the notable tree. Poor or inappropriate pruning of a tree, or activities with the dripline area could impact the tree's health, structural integrity and amenity value - which longer term could reduce its STEM assessment and therefore increase the potential for the tree to be lost. This has the potential for poor outcomes when the use and enjoyment of the property and surroundings are given greater weighting because of the word 'or'. It is problematic in ensuring the long-term protection of identified notable trees. Retaining 'and' allows a greater balancing to be undertaken to ensure that both (i) and (ii) are achieved.
258. I recommend that Policy 7.1.9 be retained as notified.

6.10.4 Recommendations

259. For the reason outlined above, I recommend that the Hearings Panel:

Accept Tainui o Tainui [942.62]

Reject Pareoranga Te Kata [FS1035.98]

Reject Federated Farmers of New Zealand [680.117].

6.10.5 Recommended amendments

260. No amendments are required to Policy 7.1.9.

6.10.6 Section 32AA evaluation

261. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

7 Zone Provisions

7.1 General zone provision matters

7.1.1 Introduction

262. While the objectives and policies pertaining to the protection of heritage items, sites and notable trees are contained in Chapter 7 – Historic Heritage, the specific provisions to achieve those objectives and policies are anchored in the individual zone chapters:

- 16 Residential Zone
- 17 Business Zone
- 20 Industrial Zone
- 21 Heavy Industrial Zone
- 22 Rural Zone
- 23 Country Living Zone
- 24 Village Zone
- 25 Reserve Zone

7.1.2 Submissions

263. There are nineteen submission points and seven further submission points on general matters relating to planning provisions for the protection of heritage items and notable trees. Therefore, it is sensible to address these submission points all together to avoid repetition in this report.

264. The following submissions were made:

Submission point	Submitter	Summary of submission
330.86	Andrew & Christine Gore	No specific decision sought, however submission refers to Rule 22.2.5 Notable trees and/or all rules siting under Rule 22.2.5.
330.99	Andrew & Christine Gore	No specific decision sought, however submission refers to Rule 22.2.5 Notable trees and/or all rules siting under Rule 22.2.5.
330.114	Andrew & Christine Gore	No specific decision sought, however submission refers to Rule 23.3.9 Historic Heritage, and/or all rules sitting under Rule 23.3.9.

330.154	Andrew & Christine Gore	No specific decision sought, however submission refers to Rule 22.3.8 Historic Heritage, and/or all rules sitting under Rule 22.3.8 Heritage items.
559.113	Heritage New Zealand Pouhere Taonga	Add a new Restricted Discretionary Activity rule to the District Plan as follows: <u>Rule RDI (a) Any activity required to be undertaken to provide for building or fire safety and/or earthquake strengthening. (b) Council's discretion is restricted to the following matters: (c) Effects on heritage values, including appearance and integrity of the heritage item.</u>
FS1388.809	Mercury NZ Limited	Oppose
FS1114.20	Fire and Emergency New Zealand	Support
559.280	Heritage New Zealand Pouhere Taonga	Add a new advice note to zone rules for Land use - Effects that directs the plan reader to the signage rules relating to heritage items and Maaori sites of significance.
567.11	Ngati Tamaoho Trust	Add to Rule 16.2.6 Notable Trees and all sections of the Proposed District Plan where notable trees are referred to, the following: trees over 200 years old unless in poor health are automatically protected.
FS1342.142	Federated Farmers	Oppose
697.141	Waikato District Council	Amend Rule 16.3.11 Historic Heritage heading to read as follows: <u>Historic Heritage Items</u>
FS1323.53	Heritage New Zealand Pouhere Taonga	Support
697.142	Waikato District Council	Amend Rule 16.3.11 (2) as follows: The rules in 16.3.11.6 – Matangi and Huntly <u>address</u> addresse development within the two precincts.
697.216	Waikato District Council	Amend Rule 17.3.8 Heritage heading, to read as follows: <u>Heritage Items</u>
FS1323.54	Heritage New Zealand Pouhere Taonga	Support
697.284	Waikato District Council	Amend Rule 18.3.10 Historic Heritage heading, as follows: <u>Historic Heritage Items</u>
FS1323.55	Heritage New Zealand Pouhere Taonga	Support
697.285	Waikato District Council	Amend Rule 18.3.10 (1) Historic Heritage to read, as follows: The following rules manage heritage items (buildings and monuments) <u>within the Business Town Centre Zone</u>
697.413	Waikato District	Amend Rule 25.3.6(1) Heritage Items, as follows:

	Council	The following rules manage heritage items (<u>buildings and monuments</u>) within the Reserve Zone:
697.908	Waikato District Council	Amend Rule 23.3.9 Historic Heritage heading, as follows: <u>Historic Heritage Items</u>
697.993	Waikato District Council	Amend Rule 24.3.8 Historic Heritage heading to read as follows: <u>Historic Heritage Items</u>
<i>FS1323.56</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support</i>
942.80	Tainui o Tainui	Add a new clause to rule 17.2.6.1 CI (b) Notable tree – removal or destruction as follows: (iv) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>
942.90	Tainui o Tainui	Add a new clause to rule 17.2.6.1 Notable tree – removal or destruction as follows: (xx) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>
942.92	Tainui o Tainui	Add a new clause to rule 17.2.6.2 RDI Notable tree – removal or destruction as follows: (xx) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>
942.93	Tainui o Tainui	Add a new clause to rule 17.2.6.3 Notable tree – removal or destruction as follows: (xx) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>

7.1.3 Analysis

265. Andrew and Christine Gore [330.86], [330.99], [330.114] and [330.154] reference all rules (e.g. rules “22.3-up to and including 22.3.85”), capturing matters pertaining to heritage. They have not provided any specific text pertaining to heritage, including notable trees. Therefore there are no matters to address in this section 42a report.

266. Heritage New Zealand Pouhere Taonga [559.113] (‘HNZPT’) seeks the addition of a new activity for all zones to address fire safety and earthquake strengthening of heritage items:

RDI	<p>(a) Any activity required to be undertaken to provide for building or fire safety and/or earthquake strengthening</p> <p>(b) Council’s discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values, including appearance and integrity of the heritage item</p>
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267. This submission is supported by Fire and Emergency New Zealand [FS1114.20] (‘FENZ’), who consider fire protection of heritage buildings to be an important resource management issue because fire safety works may involve the addition of structures or alterations to a building that could impact on the heritage values of a scheduled heritage item.

268. This matter has already been discussed and addressed in HNZPT's submission point seeking the addition of policies for fire safety and earthquake strengthening in Policy 7.1.3. I consider that it could be efficient and effective to incorporate HNZPT's proposed rule within each zone chapter for Historic Heritage, however the works undertaken to achieve fire safety and earthquake strengthening requirements fall under the definition(s) for additions and alterations. Therefore, it is unnecessary to separate these works from any other type of addition or alterations that could occur to a scheduled heritage item.
269. Heritage New Zealand Pouhere Taonga [559.280] ('HNZPT') requests the addition of a new advice note to zone rules for Land use - Effects that directs the plan reader to the signage rules relating to heritage items and Maaori sites of significance. HNZPT is concerned that, as signage can cause adverse effects to heritage items, having no specific signage rules under the historic heritage section in each zone could be problematic.
270. The district plan is a dynamic document and Chapter 12 provides plan users with directions on how to use and interpret the plan. While I acknowledge HNZPT's concern, I am not convinced that there is the need for a specific advice note, taking into account the plan's existing framework and the information contained in Chapter 12.
271. Ngati Tamaoho Trust [567.11] seeks the inclusion of additional provisions for the protection of any tree that is over 200 years old, except if it is in poor health. Federated Farmers of New Zealand [FS/342.142] ('FFNZ') oppose this submission. As I stated, in addressing the Trust's submission point on Policy 7.1.8, Section 76 of the RMA set out the matters a territorial authority may consider when carrying out its functions under the Act, including the management of trees. In relation to trees, Sections 76(4A), 76(4B), 76(4C) and 76(4D) outline the parameters under which protection can be applied. Specifically, trees must be identified individually or as a group (e.g. a cluster, grove or line of trees) via a list in the district plan and notated on the planning maps. No trees can be protected under a general approach such as by age or size, and regardless of whether the site on which those trees are located is also clad in bush or other vegetation.
272. Accordingly, although the submission by Ngati Tamaoho Trust is relevant for the overall amenity of the district, the direction set via the Act does not allow for the implementation of blanket controls over the management of trees in general.
273. Waikato District Council [697.142] - the relief sought is to correct the spelling of 'address' in Rule 16.3.11(2). This is simply a correction and should be undertaken.
274. Waikato District Council [697.141], [697.216], [697.284], [697.908], [697.993] ('WDC') seek the amendment of the generic heading 'Historic Heritage' to 'Heritage Items' for consistency of wording across the zone chapters when addressing the rules relating to heritage matters. This is supported by Heritage New Zealand Pouhere Taonga [FS/323.53], [FS/323.54], [FS/323.55] and [FS/323.56]. There is no issue with this change, and it ensures good plan administration. I recommend that these submission points be accepted.
275. Waikato District Council [697.285] ('WDC') seeks the deletion of the text 'within the Business Town Centre Zone' presently at the end of the sentence relating to Rule 18.3.10(1) to align with the other zone chapters. There is no issue with this change, and it ensures good plan administration. I recommend that this submission point be accepted.
276. Waikato District Council [697.413] ('WDC') seeks the deletion of the text 'within the Reserve Zone' presently at the end of the sentence relating to Rule 25.3.6(1) to align with the other zone chapters. There is no issue with this change, and it ensures good plan administration. I recommend that this submission point be accepted.

277. Tainui o Tainui [942.80], [942.90], [942.92] and [942.93] seek the inclusion of a new clause in the Notable Tree rules for the Business zone. The proposed new clauses read:

7.2.6.1 Notable tree – removal or destruction

PI	Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council from a works arborist that states that the tree is dead, dying, diseased or unsafe. (xx) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>
CI	(a) Removal or destruction of a tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 17.2.6.1 PI. (b) Council's control is limited to the following matters: (i) Timing and manner in which the activity is carried out; (ii) Effects on amenity values; and (iii) Effects on heritage values. (iv) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>

17.2.6.2 Notable tree – trimming

PI	(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either: (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at the point of severance and no more than 10% of live foliage growth is removed in any single consecutive 12 month period.
RDI	(a) The trimming of a notable tree that does not comply with Rule 17.2.6.2 PI. (b) Council's discretion is limited to the following matters: (i) Timing and manner in which the activity is carried out; and (ii) Effects on amenity values. (xx) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>

17.2.6.3 Notable tree – activities within the dripline

PI	(a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not: (i) Involve excavation, compaction, sealing or soil disturbance and placement of fill material, except for the sealing of an existing road or footpath; (ii) Involve parking or storage of materials, vehicles or machinery; (iii) Discharge of an eco-toxic substance; and (iv) Involve construction of structures. (xx) <u>Effects on Maori cultural values if the tree has been identified by Tangata whenua as a Notable Tree</u>
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RDI	<p>(a) Any activity within the dripline of a notable tree that does not comply with Rule 17.2.6.3 PI.</p> <p>(b) Council's discretion is limited to the following matters:</p> <ul style="list-style-type: none"> (i) Location of the activity in relation to the tree; (ii) Timing and manner in which the activity is carried out; (iii) Remedial measures; (iv) Effect on the health of the tree; (v) Amenity values
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278. The submission points focus on the Business zone only, and there are no reasons given in the submission for this.³⁴ However, in the body of the submission, Tainui o Tainui highlight that *“Trees are the first children of Tane Mahuta and were placed to clothe the earth, store carbon, oxygenate the planet, and provide for human needs. Unfortunately, 20–21 century growth and development have seen the destruction of trees that have stood for centuries. Some of these trees protected by tangata whenua as markers, have been felled without regard for their age or purpose within the forest ecosystem”*.³⁵
279. The STEM method has been used for the assessment of all notable trees to determine significance for scheduling. In evaluating a tree, there are three broad characteristics applied, one being ‘Notable evaluation’, that requires consideration of the tree’s stature, historic, and scientific characteristics. The subcategories under ‘Historic’ are age, association, commemoration, remnant and relic. Therefore, it is considered that as this ‘Historic’ subcategory already encapsulates cultural values.

7.1.4 Recommendations

280. For the reasons outlined above, I recommend that the Hearings Panel:

Reject Andrew and Christine Gore [330.86], [330.99], [330.114] and [330.154].

Reject Heritage New Zealand Pouhere Taonga [559.113], Fire and Emergency New Zealand [FS/114.20] and Mercury NZ Limited [FS/388.809] - the addition of rules for fire safety and earthquake strengthening.

Reject Heritage New Zealand Pouhere Taonga [559.280] - advice note for signage rules.

Reject Ngati Tamaoho Trust [567.11] and **Accept** Federated Farmers of New Zealand [FS/342.142] - the protection of any tree that is over 200 years old, except if it is in poor health.

Accept Waikato District Council [697.142] - to correct spelling error in Rule 16.3.11(2).

Accept Waikato District Council [697.141], [697.216], [697.284], [697.908] and [697.993] and Heritage New Zealand Pouhere Taonga [FS/323.53], [FS/323.54], [FS/323.55] and [FS/323.56] - the amendment of the generic heading ‘Historic’ to ‘Heritage Items’ for consistency of wording across the zone chapters.

Accept Waikato District Council [697.285] - the deletion of the text ‘within the Business Town Centre Zone’ presently at the end of the sentence relating to Rule 18.3.10(1) so as to align with the other zone chapters.

³⁴ Tainui o Tainui [942], page 15.

³⁵ Tainui o Tainui [942], page 12.

Accept Waikato District Council [697.413] - the deletion of the text 'within the Reserve Zone' presently at the end of the sentence relating to Rule 25.3.6(I) so as to align with the other zone chapters.

Reject Tainui o Tainui [942.80], [942.90], [942.92] and [942.93].

7.1.5 Recommended amendments

281. The following amendments are recommended:

Rule 16.3.11 ~~Historic~~ Heritage items³⁶

- (1) The following rules manage heritage items (buildings and monuments):
 - (a) 16.3.11.1 - Group A Heritage item - Demolition, removal or relocation
 - (b) 16.3.11.2 Group-B Heritage Item - Demolition, removal or relocation
 - (c) 16.3.11.3 All heritage items - Alterations or additions
 - (d) 16.3.11.4 All heritage items - Maintenance or repair
 - (e) 16.3.11.5 All Heritage Items - site development
- (2) The rules in 16.3.11.6 - Matangi and Huntly ~~addresse~~ address³⁷ development within the two precincts.

Rule 17.3.8 Heritage Items³⁸

- (1) The following rules manage heritage items (buildings and monuments):
 - (a) 17.3.8.1 - Group A Heritage item - Demolition, removal or relocation
 - (b) 17.3.8.2 Group B Heritage Item - Demolition, removal or relocation
 - (c) 17.3.8.3 All heritage items - Alterations or additions
 - (d) 17.3.8.4 All heritage items - Maintenance or repair
 - (e) 17.3.8.5 All Heritage Items - site development

Rule 18.3.10 ~~Historic~~ Heritage items³⁹

- (1) The following rules manage heritage items (buildings and monuments) ~~within the Business town Centre:~~
 - (a) 18.3.10.1 Group A Heritage item - Demolition, removal or relocation;
 - (b) 18.3.10.2 Group B Heritage Item - Demolition, removal or relocation;
 - (c) 18.3.10.3 All heritage items - Alteration or addition;
 - (d) 18.3.10.4 All heritage items - Maintenance or repair; and
 - (e) 18.3.10.5 All heritage Items - all site development

Rule 20.3.5 ~~Historic~~ Heritage items⁴⁰

- (1) The following rules manage heritage items (buildings and monuments):
 - (a) 20.3.5.1 - Group A heritage item - demolition, removal or relocation
 - (b) 20.3.5.2 - Group B heritage Item - demolition, removal or relocation
 - (c) 20.3.5.3 - All heritage items - alteration or addition
 - (d) 20.3.5.4 - All heritage items - maintenance or repair
 - (e) 20.3.5.5 - All Heritage Items - all site development

Rule 22.3.8 Heritage items

- (a) The following rules manage heritage items (buildings and monuments):
 - (i) 22.3.8.1 Group A Heritage item - demolition, removal or relocation;
 - (ii) 22.3.8.2 Group B Heritage Item - demolition, removal or relocation;
 - (iii) 22.3.8.3 All Heritage Items - alterations or additions;

³⁶ [697.141]

³⁷ [697.142]

³⁸ [697.216]

³⁹ [697.284], [697.285]

⁴⁰ [697.141], [FS1323.53]

- (iv) 22.3.8.4 All Heritage Items - maintenance or repair;
- (v) 22.3.8.5 All Heritage Items - all site development.

Rule 23.3.9 Historic Heritage items⁴¹

- (1) The following rules manage heritage items (buildings and monuments):
 - (a) 23.3.9.1 Group A Heritage item - demolition, removal or relocation;
 - (b) 23.3.9.2 Group B Heritage Item - Demolition, removal or relocation;
 - (c) 23.3.9.3 All Heritage Items - alteration or addition;
 - (d) 23.3.9.4 All Heritage Items - maintenance or repair;
 - (e) 23.3.9.5 All Heritage Items - all site development.

Rule 24.3.8 Historic Heritage items⁴²

- (1) The following rules manage heritage items (buildings and monuments):
 - (a) 24.3.8.1 - Group A Heritage item - Demolition, removal or relocation
 - (b) 24.3.8.2 - Group B Heritage Item - Demolition, removal or relocation
 - (c) 24.3.8.3 - All heritage items - Alterations or additions
 - (d) 24.3.8.4 - All heritage items - Maintenance or repair
 - (e) 24.3.8.5 - All Heritage Items - Site development

Rule 25.3.6 Heritage Items⁴³

- (1) The following rules manage heritage items **(buildings and monuments) within the Reserve Zone:**
 - (a) 25.3.6.1 Group A Heritage item - demolition, removal or relocation;
 - (b) 25.3.6.2 Group B Heritage Item - demolition, removal or relocation;
 - (c) 25.3.6.3 All heritage items - alterations or addition;
 - (d) 25.3.6.4 All heritage items - maintenance or repair; and
 - (e) 25.3.6.5 All heritage items - all site development.

7.1.6 Section 32AA evaluationOther reasonably-practicable options

282. The amendments are considered to be the more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

283. The amendments improve the effectiveness of the rule and plan administration.

Costs and benefits

284. There are no additional costs, therefore costs are likely to be the same; the recommended changes are editorial in nature only.

Risk of acting or not acting

285. There is no risk if the change is not adopted; however, adopting the amendments would ensure consistency across all relevant zones.

Decision about most appropriate option

286. The amendments are considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

⁴¹ [697.908]

⁴² [697.993]

⁴³ [697.413]

7.2 Demolition, removal or relocation of any ‘A’-ranked heritage item listed in Schedule 30.1

Zone	Rule
Residential	16.3.11.1
Business	17.3.8.1
Business Town Centre	18.3.10.1
Industrial	20.3.5.1
Rural	22.3.8.1
Country Living	23.3.9.1
Village	24.3.8.1
Reserve	25.3.6.1

7.2.1 Introduction

287. The demolition, removal or relocation of ‘A’-ranked scheduled heritage items is managed through a corresponding non-complying activity status and rule in each of the above-listed zone chapters.

7.2.2 Submissions

288. The following submissions were made:

Submission point	Submitter	Summary of submission
559.88	Heritage New Zealand Pouhere Taonga	Retain Rule 16.3.11.1 NCI Group A heritage item – Demolition, removal or relocation
559.89	Heritage New Zealand Pouhere Taonga	Retain Rule 17.3.8.1 NCI Group A heritage item – Demolition, removal or relocation
559.90	Heritage New Zealand Pouhere Taonga	Retain Rule 18.3.10.1 NCI Group A heritage item – Demolition, removal or relocation
559.91	Heritage New Zealand Pouhere Taonga	Retain Rule 20.3.5.1 NCI Group A heritage item – Demolition, removal or relocation
559.92	Heritage New Zealand Pouhere Taonga	Retain Rule 22.3.8.1 NCI Group A heritage item – Demolition, removal or relocation
559.93	Heritage New Zealand Pouhere Taonga	Retain Rule 23.3.9.1 NCI Group A heritage item – Demolition, removal or relocation
559.94	Heritage New Zealand Pouhere Taonga	Retain Rule 24.3.8.1 NCI Group A heritage item – Demolition, removal or relocation

7.2.3 Analysis

289. Heritage New Zealand Pouhere Taonga [559.88], [559.89], [559.90], [559.91], [559.92], [559.93], [559.94] (‘HNZPT’) supports the non-complying activity status for ‘A’-ranked scheduled heritage items and seeks the retention of the corresponding demolition, removal or relocation rule for ‘A’-ranked heritage items in the zone chapters for residential, rural,

business, business town centre, country living and village zones. I recommend that these submission points be accepted.

7.2.4 Recommendations

290. For the reasons given above, I recommend that the Hearings Panel:

Accept Heritage New Zealand Pouhere Taonga [559.88], [559.89], [559.90], [559.91], [559.92], [559.93], [559.94].

7.2.5 Recommended amendments

291. No amendments are required to the activity status for 'A'-ranked scheduled heritage items.

7.2.6 Section 32AA evaluation

292. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

7.3 Demolition, removal or relocation of any 'B'-ranked heritage item listed in Schedule 30.1

Zone	Rule
Residential	16.3.11.2
Business	17.3.8.2
Business Town Centre	18.3.10.2
Industrial	20.3.5.2
Rural	22.3.8.2
Country Living	23.3.9.2
Village	24.3.8.2
Reserve	25.3.6.2

7.3.1 Introduction

293. The demolition, removal or relocation of 'B'-ranked scheduled heritage items is managed through corresponding discretionary activity status and rules in each of the above-listed zone chapters. The exception is in the Business Town Centre zone, where the activity status for the demolition, removal or relocation of a specific heritage-scheduled - Item #104 (Ngaruawahia Plunket Rooms) - is permitted.

7.3.2 Submissions

294. The following ten submission points and one further submission point were made on the planning provisions relating to the demolition, removal or relocation of 'B'-ranked heritage items:

Submission point	Submitter	Summary of submission
559.95	Heritage New Zealand Pouhere Taonga	Delete Rule 18.3.10.2 PI Group B heritage item – Demolition, removal or relocation

559.96	Heritage New Zealand Pouhere Taonga	Retain Rule 16.3.11.2 D1 Group B heritage item – Demolition, removal or relocation
559.97	Heritage New Zealand Pouhere Taonga	Retain Rule 17.3.8.2 D1 Group B heritage item – Demolition, removal or relocation
559.98	Heritage New Zealand Pouhere Taonga	Retain Rule 18.3.10.2 D1 Group B heritage item – Demolition, removal or relocation
559.99	Heritage New Zealand Pouhere Taonga	Retain Rule 20.3.5.2 D1 Group B heritage item – Demolition, removal or relocation
559.100	Heritage New Zealand Pouhere Taonga	Retain 22.3.8.2 D1 Group B heritage item – Demolition, removal or relocation
559.101	Heritage New Zealand Pouhere Taonga	Retain 23.3.9.2 D1 Group B heritage item – Demolition, removal or relocation
559.102	Heritage New Zealand Pouhere Taonga	Retain 24.3.8.2 D1 Group B heritage item – Demolition, removal or relocation
559.103	Heritage New Zealand Pouhere Taonga	Amend Rule 18.3.10.2 D2 Group B heritage item – Demolition, removal or relocation to ensure that item 104 Ngaruawahia Plunket Rooms and Women’s Rest Rooms in the same manner as other items in Schedule 30.1 is subject to the same demolition rules as other “B” ranked items
559.234	Heritage New Zealand Pouhere Taonga	Amend the Proposed District Plan to administer the Ngaruawahia Centennial Memorial Plunket rooms
697.286	Waikato District Council	Amend Rule 18.3.10.2 D2 Group B heritage item demolition, removal or relocation, as follows: Demolition, removal and relocation of Group B heritage item 104 Ngaruawahia Plunket Rooms that does not meet Rule 18.3.10.2 <u>PI</u>
<i>FS1323.57</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>

7.3.3 Analysis

295. Heritage New Zealand Pouhere Taonga [559.95], [559.96], [559.97], [559.98], [559.98], [559.99], [559.100], [559.101], [559.102] (‘HNZPT’) supports the discretionary activity status for ‘B’-ranked scheduled heritage items and seeks the retention of the corresponding discretionary activity status for the demolition, removal or relocation rule for ‘B’-ranked heritage items in the zone chapters for residential, rural, business, business town centre, country living and village zones. I recommend that these submission points be accepted.
296. Heritage New Zealand Pouhere Taonga [559.103] and [559.234] (‘HNZPT’) opposes the permitted activity status in Rule 18.3.10.2 for the demolition, removal or relocation of the Ngaruawahia Centennial Memorial Plunket Rooms & Women’s Rest Rooms, Heritage Item ID#104. Waikato District Council [697.286] (‘WDC’) seeks the amendment of Rule 18.3.10.2 to add the reference ‘PI’ after Rule 18.3.10.2; this has been opposed by Heritage New Zealand Pouhere Taonga [*FS1323.57*], as their submission is seeking the deletion of the permitted activity status.

297. The Ngaruawahia Centennial Memorial Plunket Rooms & Women's Rest Rooms is not scheduled in the Operative District Plan or listed by Heritage New Zealand Pouhere Taonga. Dr McEwan recommended its inclusion as a 'B'-ranked heritage item in the proposed district plan following her review of the district's historic heritage in 2016-2017. Dr McEwan identified that the building has historic significance for its Art Deco Moderne style; is an example of the work of notable New Zealand architects Walker and Muston; and has both historic and cultural significance as a place of community identity and association with the local branch of the Plunket Society.⁴⁴
298. Under Chapter 7 – Historic Heritage the policy direction is for the district's past to be recognised, conserved and promoted. In particular, scheduled items should be protected from demolition or removal.⁴⁵ The heritage assessment undertaken in 2016-17 identified this building as meeting the necessary criteria for scheduling. Council confirmed the building's heritage significance by including it in Schedule 30.1.
299. The process which council took to finalise the content of the proposed district plan relating to historic heritage (built heritage and notable trees) is outlined in the Section 32 Report for Historic Heritage. Section 1.8 - Decision-making of the Section 32 Report - specifically identified that the Council-owned Ngaruawahia Centennial Memorial Plunket Rooms & Women's Rest Rooms were not used because of their earthquake-prone status and, in their opinion, the costs of rehabilitation would outweigh the benefits of retaining the building. Council agreed to acknowledge their heritage value by allowing their inclusion in the schedule. However, this was on the proviso that a rule also be inserted permitting its demolition, subject to recording the building's historic heritage during demolition. As notified, Rule 18.2.10.2 provides an activity status for demolition of heritage item ID#104.
300. Rule 18.3.10.2 PI states:

PI	<p>(a) Demolition, removal or relocation of Group B heritage item 104 Ngaruawahia Plunket Rooms listed in Schedule 30.1 (Heritage Items) must comply with all the following conditions:</p> <p>(i) The owner advises the Ngaruawahia Community Board in writing 20 working days prior to the removal or demolition (in whole or part) of the building;</p> <p>(ii) A heritage research report on the building by a qualified heritage researcher as well as a comprehensive photographic record of the interior and exterior of the building is completed and made available in Council records.</p>
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301. HNZPT considers that this building should be subject to the same rules as all other B-ranked heritage items. Following consideration of this submission, Dr McEwan has advised that she supports HNZPT's reasoning for seeking the deletion of Rule 18.3.10.2 PI, stating "there is no justification for treating the Plunket Rooms differently in the PDP from any other B ranked buildings that has been assessed according to the criteria adopted by WDC".⁴⁶ Dr McEwan also raised concern that the exemption rule allowing demolition of this B-ranked building actually questions the integrity of the scheduling process.

⁴⁴ Dr McEwan, 2017

⁴⁵ Policy 7.1.3(e), Chapter 7, Waikato District Proposed District Plan, 2018

⁴⁶ Dr McEwan, 2020 page 6

302. The RMA requires all local authorities to protect historic heritage, while under the Local Government Act ('LGA'), local authorities undertake several different roles in the overall management of their individual jurisdictions (e.g. landowner, policy-setter, regulatory authority). However, in my opinion, it is inappropriate for a council, through a policy setting process, to give itself, as landowner, exemptions not afforded all other landowners. Rule 18.3.10.2 does just that.
303. I consider that Rule 18.3.10.2 PI does not meet best practice for the protection of heritage under the RMA. Therefore, I recommend that Rule 18.3.10.2 PI be deleted; with the consequential deletion of Rule 18.3.10.2 D2. That the submission by HNZPT be accepted and the submission by WDC be rejected.

7.3.4 Recommendations

304. For the reasons given above, I recommend that the Hearings Panel:

Accept Heritage New Zealand Pouhere Taonga [559.95], [559.96], [559.97], [559.98], [559.99], [559.100], [559.101], [559.102] - no change to the discretionary activity status for 'B'-ranked scheduled heritage items.

Accept Heritage New Zealand Pouhere Taonga [559.103] and [559.234]; **Reject** Waikato District Council [697.286]; and **Accept** Heritage New Zealand Pouhere Taonga [FS/323.57] - Rule 18.3.10.2 - remove the permitted activity status for the demolition, removal or relocation of the Ngaruawahia Centennial Memorial Plunket Rooms & Women's Rest Rooms, Heritage Item ID#104.

7.3.5 Recommended amendments

305. The following amendments are recommended:

Rule 18.3.10.2 Group B heritage item - demolition, removal or relocation ⁴⁷

PI	(a) Demolition, removal or relocation of Group B heritage item 104 Ngaruawahia Plunket Rooms listed in Schedule 30.1 (Heritage Items) must comply with all of the following conditions: (i) The owner advises the Ngaruawahia Community Board in writing 20 working days prior to the removal or demolition (in whole or part) of the building; (ii) A heritage research report on the building by a qualified heritage researcher as well as a comprehensive photographic record of the interior and exterior of the building is completed and made available in Council records.
DI	Demolition, removal or relocation of any Group B heritage item listed in Schedule 30.1 (Heritage Items).
D2	Demolition, removal and relocation of Group B heritage item 104 Ngaruawahia Plunket Rooms that does not meet Rule 18.3.10.2.

7.3.6 Section 32AA evaluation

Other reasonably-practicable options

⁴⁷ [559.103] and [559.234]

306. The amendment to Rule 18.3.10.2 - Demolition, Removal or relocation of all 'B'-ranked heritage is considered a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

307. The amendments improve the effectiveness of the rule and plan administration by ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of historic heritage, including notable trees is a district-wide matter.

Costs and benefits

308. There will be additional costs to the owners of ID#104 regarding resource consent costs if they were seeking consent for demolition that was not required under the notified version of the district plan - and ongoing maintenance costs. However, the benefit to the heritage fabric of the district is that the heritage item is fully protected, and if demolition was sought, that would be assessed against the district plan's objective and policy framework.

Risk of acting or not acting

309. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to this rule.

Decision about most appropriate option

310. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

7.4 Alteration or addition to a heritage item listed in Schedule 30.1

Zone	Rule
Residential	16.3.11.3
Business	17.3.8.3
Business Town Centre	18.3.10.3
Industrial	20.3.5.3
Rural	22.3.8.3
Country Living	23.3.9.3
Village	24.3.8.3
Reserve	25.3.6.3

7.4.1 Introduction

311. The alteration or addition to scheduled heritage items is managed through the historic heritage rules in each of the above-listed zone chapters.

7.4.2 Submissions

312. Twenty-six submission points and four further submission points were received seeking changes to the 'Alterations and Additions' rules relating to heritage items.
313. The following submissions were made:

Submission	Submitter	Summary of submission
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point		
559.104	Heritage New Zealand Pouhere Taonga	Delete Rules 23.3.9.3 PI All heritage items – alterations or additions
559.105	Heritage New Zealand Pouhere Taonga	Delete Rules 24.3.8.3 PI All heritage items – alterations or additions
559.106	Heritage New Zealand Pouhere Taonga	Retain Rules 16.3.11.3 RD1 All heritage items – alterations or additions, except for amendments sought below: AND Amend Rule 16.3.11.3 RD1 as follows: (a) Any activity that does not comply with Rules 16.3.11.3 PI. <u>Any alteration or addition to a heritage item in Schedule 30.1 Heritage items.</u> (b) Council's discretion is restricted to the following matters: (i) <u>Location, Form, scale, style, materials and appearance;</u> and (ii) <u>Effects on heritage values (iii) Effects on the setting of the heritage item.</u>
559.107	Heritage New Zealand Pouhere Taonga	Retain Rules 17.3.8.3 RD1 All heritage items – alterations or additions, except for amendments sought below: AND Amend Rule 17.3.8.3 RD1 as follows: (a) Any activity that does not comply with Rules 17.3.8.3 PI. <u>Any alteration or addition to a heritage item in Schedule 30.1 Heritage items.</u> (b) Council's discretion is restricted to the following matters: (i) <u>Location, Form, scale, style, materials and appearance;</u> and (ii) <u>Effects on heritage values (iii) Effects on the setting of the heritage item.</u>
559.108	Heritage New Zealand Pouhere Taonga	Retain Rules 18.3.10.3 RD1 All heritage items – alterations or additions, except for amendments sought below: AND Amend Rule 18.3.10.3 RD1 as follows: (a) Any activity that does not comply with Rules 18.3.10.3 PI. <u>Any alteration or addition to a heritage item in Schedule 30.1 Heritage items.</u> (b) Council's discretion is restricted to the following matters: (i) <u>Location, Form, scale, style, materials and appearance;</u> and (ii) <u>Effects on heritage values (iii) Effects on the setting of the heritage item</u>
559.109	Heritage New Zealand Pouhere Taonga	Retain Rules 20.3.5.3 RD1 All heritage items – alterations or additions, except for amendments sought below: AND Amend Rule 20.3.5.3 RD1 as follows: (a) Any activity that does not comply with Rules 20.3.5.3

		<p>PI. Any alteration or addition to a heritage item in Schedule 30.1 Heritage items. (b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Location</u>, Fform, <u>scale</u>, style, materials and appearance; and (ii) Effects on heritage values (iii) <u>Effects on the setting of the heritage item</u></p>
559.110	Heritage New Zealand Pouhere Taonga	<p>Retain Rules 22.3.8.3 RDI All heritage items – alterations or additions, except for amendments sought below:</p> <p>AND</p> <p>Amend Rule 22.3.8.3 RDI as follows: (a) Any activity that does not comply with Rules 22.3.8.3</p> <p>PI. Any alteration or addition to a heritage item in Schedule 30.1 Heritage items. (b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Location</u>, Fform, <u>scale</u>, style, materials and appearance; and (ii) Effects on heritage values (iii) <u>Effects on the setting of the heritage item</u></p>
559.111	Heritage New Zealand Pouhere Taonga	<p>Retain Rules 23.3.9.3 RDI All heritage items – alterations or additions, except for amendments sought below:</p> <p>AND</p> <p>Amend Rule 23.3.9.3 RDI as follows: (a) Any activity that does not comply with Rules 23.3.9.3</p> <p>PI. Any alteration or addition to a heritage item in Schedule 30.1 Heritage items. (b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Location</u>, Fform, <u>scale</u>, style, materials and appearance; and (ii) Effects on heritage values (iii) <u>Effects on the setting of the heritage item</u></p>
559.112	Heritage New Zealand Pouhere Taonga	<p>Retain Rules 24.3.8.3 RDI All heritage items – alterations or additions, except for amendments sought below:</p> <p>AND</p> <p>Amend Rule 24.3.8.3 RDI as follows: (a) Any activity that does not comply with Rules 24.3.8.3</p> <p>PI. Any alteration or addition to a heritage item in Schedule 30.1 Heritage items. (b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Location</u>, Fform, <u>scale</u>, style, materials and appearance; and (ii) Effects on heritage values (iii) <u>Effects on the setting of the heritage item</u></p>
559.293	Heritage New Zealand Pouhere Taonga	Delete Rule 16.3.11.3 PI All heritage items – alterations or additions
FS1269.43	Housing New Zealand Corporation	Oppose
559.294	Heritage New Zealand	Delete Rule 17.3.8.3 PI All heritage items –

	Pouhere Taonga	Alterations or additions.
559.295	Heritage New Zealand Pouhere Taonga	Delete Rule 18.3.10.3 PI All heritage items – alterations or additions.
559.296	Heritage New Zealand Pouhere Taonga	Delete Rule 20.3.5.3 PI All heritage items – alterations or additions
559.297	Heritage New Zealand Pouhere Taonga	Delete Rule 22.3.8.3 PI All heritage items – alterations or additions
697.143	Waikato District Council	Amend Rule 16.3.11.3 PI (a)(i) All heritage items – Alterations or addition to read as follows: No significant feature of interest is removed, destroyed or damaged; <u>and</u>
697.144	Waikato District Council	Amend Rule 16.3.11.3 RDI All heritage items – Alterations or addition to read as follows: <u>Any activity Alteration or addition to a heritage item</u> that does not comply with Rule 16.3.11.3 PI.
697.217	Waikato District Council	Amend Rule 17.3.8.3 All heritage items – Alteration or addition, as follows: PI (a) Alteration of or <u>or</u> addition to a heritage items listed in Schedule 30.1 (Heritage items) must comply with the following conditions... RDI (a) Alterations or additions to a heritage item that does not comply with Rule 17.3.8.3 PI
697.287	Waikato District Council	Amend Rule 18.3.10.3PI (a) All heritage items – alteration or addition, as follows: Alteration or addition of a heritage item listed in schedule 30.1 (Heritage Items) where <u>must comply with the following conditions:</u>
<i>FS1323.58</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
697.414	Waikato District Council	Amend Rule 25.3.6.3 PI (a) All heritage items – Alterations or addition, as follows: (a) Alteration or addition to a heritage item listed in Schedule 30.1 (Historic Heritage items) where <u>must comply with the following conditions:</u> (i) No significant feature of interest is removed, destroyed or damaged; and (ii) Alterations or additions are not visible from a public place.
<i>FS1323.61</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
697.415	Waikato District Council	Amend Rule 25.3.6.3 RDI (b) All Heritage items- alteration or addition, as follows: Council's discretion <u>shall be</u> restricted to the following matters:...
697.653	Waikato District Council	Amend Rule 20.3.5.3 RDI (b) All heritage items – alteration or addition, as follows: (a) Council's

		discretion is <u>shall be</u> restricted to the following matters:
697.654	Waikato District Council	Amend Rule 20.3.5.3 PI All heritage items – alteration or addition, as follows: (a) Alteration of , <u>or</u> addition to a heritage item listed in Schedule 30.1 (Heritage Items) must comply with the following conditions:
697.814	Waikato District Council	Amend Rule 22.3.8.3 PI (a) All heritage items – alterations or additions, as follows: (a) Alteration or addition to a heritage item listed in Schedule 30.1 (Historic Heritage Items) where <u>must comply with the following conditions:</u> (i) No significant feature of interest is removed, destroyed or damaged; <u>and</u> (ii) Alterations or additions are not visible from a public place.
FS1323.59	Heritage New Zealand Pouhere Taonga	Oppose
697.909	Waikato District Council	Amend Rule 23.3.9.3 PI (a) All heritage items – alteration or addition, as follows: (a) Alteration of , or addition to, a heritage item listed in Schedule 30.1 (Heritage Items) <u>must</u> comply with the following conditions: (i) No significant feature of interest is removed, destroyed or damaged; <u>and</u> (ii) Alterations or additions are not visible from a public place.
697.910	Waikato District Council	Amend Rule 23.3.9.3 RD1 (b) All heritage items – alteration or addition, as follows: Council's discretion <u>shall be</u> restricted to the following matters:
697.994	Waikato District Council	Amend Rule 24.3.8.3PI (a) All heritage items – alteration or addition, as follows: (a) Alteration or addition to a heritage item listed in Schedule 30.1 (<u>Historic</u> Heritage Items) where <u>must comply with the following conditions:</u> (i) No significant feature if interest is removed, destroyed or damaged: <u>and</u> (ii) Alterations or additions are not visible from a public place.
FS1323.60	Heritage New Zealand Pouhere Taonga	Oppose

7.4.3 Analysis

314. Heritage New Zealand Pouhere Taonga [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297] ('HNZPT') seek the deletion of the following permitted activity status rules: Rules 16.3.11.3 PI, 17.3.8.3 PI, 18.3.10.3 PI, 20.3.5.3 PI, 22.3.8.3 PI, 23.3.9.3 PI and 24.3.8.3 PI. Waikato District Council [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994] ('WDC') seek amendments to the

wording of rules 18.3.10.3 PI, 22.3.8.3 PI, 23.3.9.3 PI, 24.3.8.3 PI and 25.3.6.3 PI to ensure alignment with other zone chapters.

315. Housing New Zealand Corporation [FS/269.43] opposes HNZPT submission point 559.293. Heritage New Zealand Pouhere Taonga [FS/323.58], [FS/323.59], [FS/323.60] and [FS/323.61] opposes the WDC submission points [697.287], [697.414], [697.814] and [697.994].
316. Heritage New Zealand Pouhere Taonga [559.106], [559.107], [559.108], [559.109], [559.110], [559.111] and [559.112] ('HNZPT') seek amendment to the text of the following restricted discretionary rules: Rules 16.3.11.3 RDI, 17.3.8.3 RDI, 18.3.10.3 RDI, 20.3.5.3 RDI, 22.3.8.3 RDI, 23.3.9.3 RDI and 24.3.8.3 RDI. Waikato District Council [697.144], [697.415], [697.653] and [697.910] ('WDC') seek amendments to the text of Rules 16.3.11.3 RDI, 20.3.5.3 RDI, 23.3.9.3 RDI and 25.3.6.3 RDI to correct grammatical errors and ensure alignment with other zone chapters.
317. HNZPT seeks the deletion of the permitted activity rules and the consequential amendment to the text of the restricted discretionary activity rule because, in their opinion, the rule ignores the intrinsic heritage values of the entire building.
318. It is important that any works to a heritage item considers the effects of those works on the item as a whole, not simply on the areas visible to the public or specific architectural features. The items contained in Schedule 30.1. Heritage Items have all been professionally assessed using the assessment criteria from the VRPS.⁴⁸ The assessment undertaken by Dr McEwan to determine scheduling involved both the tangible and the intangible aspects of the heritage values that make each item significant. Alterations and additions can impact on those values, and cumulatively have the potential to undermine a building's overall heritage significance. It is not best practice to allow such works to occur without discretion. Proposed works should be undertaken in a manner which ensures the protection of heritage values and the retention of those values for future generations.
319. This aligns with my recommendation to amend the definitions for 'Maintenance and Repair' 'Alterations' and 'Additions'. The planning provision framework for these activities relating to Historic Heritage provides the cascading of effects to ensure the sustainable management of the resource while also managing the Part II considerations in the RMA of the health and safety the owners of these scheduled heritage items. I consider that retaining Council discretion best achieves the purpose of the RMA and management of the district's historic heritage. I recommend deleting the permitted activity rule in the Residential, Business, Business Town Centre, Industrial, Rural, Country Living, Village and Reserves zones and amending the restricted discretionary rule in the same zones. These amendments also resolve the inconsistency with wording, as identified by WDC.

7.4.4 Recommendations

320. For the reasons given above, I recommend that the Hearings Panel:

Accept Heritage New Zealand Pouhere Taonga [559.104], [559.105], [559.293], [559.294], [559.295], [559.296] and [559.297]; **Reject** Housing New Zealand Corporation [FS/269.43] - deleting Rule 16.3.11.3 PI, 17.3.8.3 PI, 18.3.10.3 PI, 20.3.5.3 PI, 22.3.8.3 PI, 23.3.9.3 PI and 24.3.8.3 PI.

Accept in part Waikato District Council [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909] and [697.994] and Heritage New Zealand Pouhere Taonga

⁴⁸ DR McEwan, 2017

[FS/323.58], [FS/323.59], [FS/323.60] and [FS/323.61] - deleting Rules 18.3.10.3 PI, 22.3.8.3 PI, 23.3.9.3 PI, 24.3.8.3 PI, and 25.3.6.3 PI to ensure alignment with other zone chapters.

Accept Heritage New Zealand Pouhere Taonga [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112] - amendments to the text of the following restricted discretionary rules: Rules 16.3.11.3 RDI, 17.3.8.3 RDI, 18.3.10.3 RDI, 20.3.5.3 RDI, 22.3.8.3 RDI, 23.3.9.3 RDI, and 24.3.8.3 RDI.

Accept Waikato District Council [697.144], [697.415], [697.653], [697.910] - amendments to the text of the following restricted discretionary rules: Rules 16.3.11.3 RDI, 20.3.5.3 RDI, 23.3.9.3 RDI, and 25.3.6.3 RDI.

7.4.5 Recommended amendments

321. The following amendments are recommended:

Rule 16.3.11.3 All heritage items - Alterations or addition⁴⁹

PI	(a) Alteration or addition to of a heritage item listed in Schedule 30.1 (Heritage Items) must comply with the following conditions: (i) no significant feature of interest is removed, destroyed or damaged; (ii) alterations or additions are not visible from a public place.
RDI	(a) Any activity that does not comply with Rule 16.3.11.3 PI alteration or addition to a heritage item in Schedule 30.1 (Heritage Items). (b) Council's discretion shall be restricted to the following matters: (i) <u>Location</u> , form, <u>scale</u> , style, materials, appearance; and (ii) effects on heritage values; <u>and</u> (iii) <u>Effects on the setting of the heritage item.</u>

Rule 17.3.8.3 All heritage items - Alterations or addition⁵⁰

PI	(a) Alteration or addition to a heritage item listed in Schedule 30.1 (Heritage Items) must comply with the following conditions: (i) No significant feature of interest is removed, destroyed or damaged; and (ii) Alterations or additions are not visible from a public place.
RDI	(a) Any activity that does not comply with Rule 17.3.8.3 PI. Alteration or addition to a heritage item in Schedule 30.1 (Heritage Items). (b) Council's discretion shall be restricted to the following matters: (i) <u>Location</u> , form, <u>scale</u> , style, materials, appearance; and (ii) Effects on heritage values; <u>and</u> (iii) <u>Effects on the setting of the heritage item.</u>

Rule 18.3.10.3 All heritage items - alteration or addition⁵¹

⁴⁹ [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

⁵⁰ [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

⁵¹ [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

PI	<p>(a) Alteration or addition to of a heritage item listed in Schedule 30.1 (Heritage Items) where:</p> <p>(i) No significant feature of interest is removed, destroyed or damaged; and</p> <p>(ii) Alterations or additions are not visible from a public place.</p>
RDI	<p>(a) <u>Any Alteration or addition of to a heritage item that does not comply with Rule 18.3.10.3 PI in Schedule 30.1 (Heritage Items).</u></p> <p>(b) The Council's discretion shall be limited <u>restricted</u> to the following matters:</p> <p>(i) <u>Location, Fform, scale,</u> style, materials, appearance;</p> <p>(ii) Effects on heritage values; <u>and</u></p> <p>(iii) <u>Effects on the setting of the heritage item.</u></p>

Rule 20.3.5.3 All heritage items - alteration or addition⁵²

PI	<p>(a) Alteration of, or addition to a heritage item listed in Schedule 30.1 (Heritage Items) must comply with the following conditions:</p> <p>(i) no significant feature of interest is removed, destroyed or damaged; and</p> <p>(ii) alterations or additions are not visible from a public place.</p>
RDI	<p>(a) <u>Any activity that does not comply with Rule 20.3.5.3 PI alteration or addition to a heritage item in Schedule 30.1 (Heritage Items).</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Location,</u> form, <u>scale,</u> style, materials and appearance; <u>and</u></p> <p>(ii) <u>eEffects</u> on heritage values; <u>and</u></p> <p>(iii) <u>Effects on the setting of the heritage item.</u></p>

Rule 22.3.8.3 All heritage items - alteration or addition⁵³

PI	<p>(a) Alteration or addition to a heritage item listed in Schedule 30.1 (Heritage Items) where:</p> <p>(i) No significant feature of interest is removed, destroyed or damaged;</p> <p>(ii) Alterations or additions are not visible from a public place.</p>
RDI	<p>(a) <u>Any activity that does not comply with Rule 22.3.8.3 PI alteration or addition to a heritage item in Schedule 30.1 (Heritage Items).</u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) <u>Location, Fform, scale,</u> style, materials and appearance;</p> <p>(ii) Effects on heritage values; <u>and</u></p> <p>(iii) <u>Effects on the setting of the heritage item.</u></p>

Rule 23.3.9.3 All heritage items - alteration or addition⁵⁴

PI	<p>(a) Alteration of, or addition to a heritage item listed in Schedule 30.1 (Heritage Items) comply with the following conditions:</p>
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⁵² [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

⁵³ [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

⁵⁴ [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

	(i) No significant feature of interest is removed, destroyed or damaged; (ii) Alterations or additions are not visible from a public place.
RDI	(a) Any activity that does not comply with Rule 23.3.9.3 PI alteration or addition to a heritage item in Schedule 30.1 (Heritage Items). (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) Location, Form, scale, style, materials and appearance; (ii) Effects on heritage values; and (iii) Effects on the setting of the heritage item.

Rule 24.3.8.3 All heritage items - Alteration or addition⁵⁵

PI	(a) Alteration or addition of a heritage item listed in Schedule 30.1 (Heritage Items) if: (i) No significant feature of interest is removed, destroyed or damaged; (ii) Alterations or additions are not visible from a public place.
RDI	(a) Any activity that does not comply with Rule 24.3.8.3 PI alteration or addition to a heritage item in Schedule 30.1 (Heritage Items). (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) Location, Form, scale, style, materials and appearance; (ii) Effects on heritage values; and (iii) Effects on the setting on the heritage item.

Consequential Change (note consequential change to ensure consistency between rules):

Rule 25.3.6.3 All heritage items - alteration or addition

PI	(a) Alteration or addition of a heritage item listed in Schedule 30.1 (Heritage Items) where: (i) No significant feature of interest is removed, destroyed or damaged; (ii) Alterations or additions are not visible from a public place.
RDI	(a) Any activity that does not comply with Rule 25.3.6.3 PI. alteration or addition to a heritage item in Schedule 30.1 (Heritage Items). (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) Location, Form, scale, style, materials and appearance; (ii) Effects on heritage values; and (iii) Effects on the setting of the heritage item.

7.4.6 Section 32AA evaluation

Other reasonably-practicable options

322. The amendment to the zone rules: All heritage items - alteration or addition is considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

323. The amendments improve the effectiveness of the rule and plan administration by ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of historic heritage, including notable trees is a district-wide matter.

Costs and benefits

⁵⁵ [559.104], [559.105], [559.293], [559.294], [559.295], [559.296], [559.297], [697.143], [697.217], [697.287], [697.414], [697.654], [697.814], [697.909], [697.994], [559.106], [559.107], [559.108], [559.109], [559.110], [559.111], [559.112], [697.144], [697.415], [697.653], [697.910].

324. There will be additional costs as a result of the removal of permitted activities, noting that WDC does provide heritage funding to support owners of scheduled heritage items. There are benefits of better management of the district's scheduled heritage resource.

Risk of acting or not acting

325. General repair and maintenance is provided for as a permitted activity, therefore the regular works to a building by an owner are already addressed. Retaining the permitted activity provision for additions and alterations runs the risk of substantial loss of heritage values. For example, works such as reroofing or the replacement of windows can impact on the heritage values protected through scheduling.

Decision about most appropriate option

326. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

7.5 Maintenance or repair of a heritage item listed in Schedule 30.1

Zone	Rule
Residential	16.3.11.4
Business	17.3.7.4
Business Town Centre	18.3.10.4
Industrial	20.3.5.4
Rural	22.3.8.4
Country Living	23.3.9.4
Village	24.3.8.4
Reserve	25.3.6.4

7.5.1 Introduction

327. Maintenance and repair of scheduled heritage items are managed through the historic heritage rules in each of the above-listed zones chapters.

7.5.2 Submissions

328. Twenty-eight submission points and seven further submission points were received seeking changes to the 'Maintenance and Repair' rules relating to heritage items.
329. The following submissions were made:

Submission point	Submitter	Summary of submission
559.114	Heritage New Zealand Pouhere Taonga	Retain Rule 16.3.11.4 PI All heritage items – Maintenance or repair, except for the amendments sought below: AND Amend Rule 16.3.11.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule

		30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces. form, style and appearance.
559.115	Heritage New Zealand Pouhere Taonga	Retain Rule 17.3.8.4 PI All heritage items – Maintenance or repair, except for the amendments sought below: AND Amend Rule 17.3.8.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces. form, style and appearance.
559.116	Heritage New Zealand Pouhere Taonga	Retain Rule 18.3.10.4 PI All heritage items – Maintenance or repair, except for the amendments sought below: AND Amend Rule 18.3.10.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces. form, style and appearance.
559.117	Heritage New Zealand Pouhere Taonga	Retain Rule 20.3.5.4 PI All heritage items – Maintenance or repair, except for the amendments sought below: AND Amend Rule 20.3.5.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces. form, style and appearance.
559.118	Heritage New Zealand Pouhere Taonga	Retain Rule 22.3.8.4 PI All heritage items – Maintenance or repair, except for the amendments sought below:

		<p>AND</p> <p>Amend Rule 22.3.8.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms <u>of colour, texture, form and design to the original that it replaces, form, style and appearance.</u></p>
559.119	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 23.3.9.4 PI All heritage items – Maintenance or repair, except for the amendments sought below:</p> <p>AND</p> <p>Amend Rule 23.3.9.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms <u>of colour, texture, form and design to the original that it replaces, form, style and appearance.</u></p>
559.120	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 24.3.8.4 PI All heritage items – Maintenance or repair, except for the amendments sought below:</p> <p>AND</p> <p>Amend Rule 24.3.8.4 PI All heritage items – Maintenance or repair as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage items). Where: (i) No significant feature of interest is destroyed or damaged; and (b) Replacement materials are the same as, or similar to, the original in terms <u>of colour, texture, form and design to the original that it replaces, form, style and appearance.</u></p>
559.121	Heritage New Zealand Pouhere Taonga	Delete Rule 16.3.11.4 RDI All heritage items – Maintenance or repair.
559.122	Heritage New Zealand Pouhere Taonga	Delete Rule 17.3.8.4 RD I All heritage items – Maintenance or repair.
559.123	Heritage New Zealand Pouhere Taonga	Delete Rule 18.3.10.4 RDI All heritage items – Maintenance or repair.
559.124	Heritage New Zealand Pouhere Taonga	Delete Rule 20.3.5.4 RDI All heritage items – Maintenance or repair.
559.125	Heritage New Zealand Pouhere Taonga	Delete Rule 22.3.8.4 RDI All heritage items – Maintenance or repair.
559.126	Heritage New Zealand	Delete Rule 23.3.9.4 RDI All heritage items –

	Pouhere Taonga	Maintenance or repair.
559.127	Heritage New Zealand Pouhere Taonga	Delete Rule 24.3.8.4 RDI All heritage items – Maintenance or repair.
697.218	Waikato District Council	Amend Rule 17.3.7.4 All heritage items – Maintenance or repair as follows: 17.3.7.4 All heritage items – Maintenance or repair.
697.288	Waikato District Council	Amend Rule 18.3.10.4 PI (a) All heritage items – maintenance or repair, as follows: Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage items) where <u>must comply with the following conditions:</u>
FS1323.62	Heritage New Zealand Pouhere Taonga	Oppose
697.416	Waikato District Council	Amend Rule 25.3.6.4 All Heritage items – maintenance or repair heading, as follows: All heritage items – maintenance and <u>or</u> repair
697.417	Waikato District Council	Amend Rule 25.3.6.4 PI (a) All heritage items – maintenance and repair, as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage Items) where <u>must comply with the following conditions:</u> (i) No significant feature of interest is destroyed or damaged; <u>and</u> (ii) Replacement materials are the same as, or similar to, the original in terms of form, style and appearance.
FS1323.65	Heritage New Zealand Pouhere Taonga	Oppose
697.418	Waikato District Council	Amend Rule 25.3.6.4 RDI (a) All heritage items – maintenance and repair, as follows: Any activity <u>Maintenance or repair</u> that does not comply with a condition of Rule 25.3.6.4 PI.
FS1323.68	Heritage New Zealand Pouhere Taonga	Oppose
697.655	Waikato District Council	Amend Rule 20.3.5.4 RDI (a) All heritage items – maintenance or repair, as follows: (a) Any activity <u>Maintenance or repair of a heritage item</u> that does not comply with Rule 20.3.5.4 PI.
697.656	Waikato District Council	Amend Rule 20.3.5.4 RDI (b) All heritage items – maintenance or repair, as follows: (b) Council's discretion is <u>shall be</u> restricted to the following matters:
697.815	Waikato District Council	Amend Rule 22.3.8.4 PI (a) All heritage items – maintenance or repair, as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Historic Heritage Items) where <u>must comply with the following</u>

		<u>conditions:</u> (i) No significant feature of interest is destroyed or damaged; <u>and</u> (ii) Replacement materials are the same as, or similar to, the original in terms of form, style and appearance.
FS1323.63	Heritage New Zealand Pouhere Taonga	Oppose
697.816	Waikato District Council	Amend Rule 22.3.8.4 RDI (a) All heritage items – maintenance or repair, as follows: (a) Any activity <u>Maintenance or repair of a heritage item</u> that does not comply with Rule 22.3.8.4 PI
FS1323.66	Heritage New Zealand Pouhere Taonga	Oppose
697.911	Waikato District Council	Amend Rule 23.3.9.4 PI (a) All heritage items – maintenance or repair: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) <u>must</u> comply with the following conditions:
697.912	Waikato District Council	Amend Rule 23.3.9.4 RDI All heritage items – maintenance or repair, as follows: Any activity <u>Maintenance or repair of a heritage item</u> that does not comply with Rule 23.3.9.4 PI
697.913	Waikato District Council	Amend Rule 23.3.9.4 RDI (b) All heritage items – maintenance or repair, as follows: Council's discretion is <u>shall be</u> restricted to the following matters:
697.995	Waikato District Council	Amend Rule 24.3.8.4 PI (a) All heritage items – maintenance or repair, as follows: (a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) where <u>must comply with the following conditions:</u> (i) No significant feature of interest is destroyed or damaged; <u>and</u> (ii) Replacement materials are the same as, or similar to, the original in terms of form, style and appearance.
FS1323.64	Heritage New Zealand Pouhere Taonga	Oppose
697.996	Waikato District Council	Amend Rule 24.3.8.4 RDI (a) All heritage items – maintenance or repair, as follows: Any activity <u>Maintenance or repair of a heritage item</u> that does not comply with Rule 24.3.8.4 PI
FS1323.67	Heritage New Zealand Pouhere Taonga	Oppose

7.5.3 Analysis

330. Waikato District Council [697.218] ("WDC") seeks to correct the incorrect numbering of Rule 17.3.7.4 *All heritage items – Maintenance or repair*. The Rule should read 17.3.8.4 All

heritage items – Maintenance or repair. Correcting this error will ensure good plan administration.

331. Waikato District Council [697.416] ('WDC') seeks grammatical change to Rule 25.3.6.4. to delete 'and' and replace it with 'or' to ensure consistency with the other zones. Correcting this will ensure good plan administration.
332. Heritage New Zealand Pouhere Taonga [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120] ('HNZPT') seeks the deletion of PI(a)(i) and amendments to the following permitted activity status rules: Rules 16.3.11.4 PI, 17.3.8.4 PI, 18.3.10.4 PI, 20.3.5.4 PI, 22.3.8.4 PI, 23.3.9.4 PI, and 24.3.8.4 PI. Waikato District Council [697.288], [697.417], [697.815], [697.911], [697.995] ('WDC') seek amendments to the wording of Rules 18.3.10.4 PI, 22.3.8.4 PI, 23.3.9.4 PI, 24.3.8.4 PI, and 25.3.6.4 PI to ensure alignment with the other zone chapters. Heritage New Zealand Pouhere Taonga [FS/323.62], [FS/323.63], [FS/323.64], [FS/323.65] opposes WDC submission points [697.288], [697.417], [697.815], [697.995].
333. HNZPT's amendment to the permitted activity rule would require deleting PI(a)(i) "no significant feature of interest is destroyed or damaged" and replace that with the following underlined text (b) Replacement materials are the same as, or similar to, the original in terms of form, style and appearance colour, texture, form, and design to the original that it replaces. The removal of the reference to 'significant feature' is consistent with the recommended changes to Schedule 30.1 in response to other submissions by both HNZPT and WDC.
334. WDC seeks the replacement of the existing word 'where' for the permitted activity rule (PI(a)) in the Business Town Centre, Rural, Country Living, and Village zones to *must comply with all of the following conditions*. Doing this will ensure alignment with the wording of the same rule under the Residential, Business, Industrial, and Reserves zones.
335. The combined relief sought by WDC and HNZPT would read as follows:

PI	(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) Where must comply with all of the following conditions: (i) no significant feature of interest is destroyed or damaged; and (ii) <u>(b) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.</u>
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336. I consider that these amendments will apply best practice and ensure good plan administration.
337. Heritage New Zealand Pouhere Taonga [559.121], [559.122], [559.123], [559.124], [559.125], [559.126] and [559.127]) seek the deletion of the following restricted discretionary rules: Rules 16.3.11.4 RDI, 17.3.8.4 RDI, 18.3.10.4 RDI, 20.3.5.4 RDI, 22.3.8.4 RDI, 23.3.9.4 RDI and 24.3.8.4 RDI. Waikato District Council [697.418], [697.655], [697.656], [697.816], [697.912], [697.913] and [697.996] seek amendments to the text for Rules 16.3.11.3 RDI, 20.3.5.4 RDI, 22.3.8.4 RDI, 23.3.9.4 RDI, 24.3.8.4 RDI and 25.3.6.4 RDI to correct grammatical errors and ensure alignment with other zone chapters.
338. Heritage New Zealand Pouhere Taonga [FS/323.66], [FS/323.67], [FS/323.68] opposes WDC submission points [697.418], [697.816] and [697.996].
339. The rule All heritage items – Maintenance or repair is as follows:

RDI	(a) Any activity that does not comply with Rule 16.3.11.4 PI.
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	(b) Council's discretion shall be restricted to the following matters: (i) form, style, materials, appearance; (ii) effects on heritage values.
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340. HNZPT seeks the deletion of RDI to reflect the situation where works to a heritage item no longer align with the defined terms of maintenance and repair, as such works should be elevated to additions or alterations and assessed under that rule framework.
341. I consider this an acceptable change. Works that do not meet the definition for 'maintenance or repair' should not continue to be considered as that activity and be cascaded to a restricted discretionary activity. Retaining Council discretion best achieves the purpose of the RMA and management of the district's historic heritage. As highlighted by HNZPT, deleting the RDI rule removes the potential for assessment conflict and provides greater clarity around the differences between Maintenance or Repair and Alterations or Additions; and allows the general rule for discretionary activities under each of the zones to be considered.
342. WDC seeks the amendment to the wording of rule RDI in the Residential, Business Town Centre, Rural, Country Living, Village and Reserve zones to reflect the existing text used in the same rule under the Business and Industrial zones. In my recommendation to delete the RDI rule in all relevant zones these changes become redundant.
343. I recommend deleting the restricted activity rule in the Residential, Business, Business Town Centre, Industrial, Rural, Country Living, Village and Reserves zones.

7.5.4 Recommendations

344. For the reasons given above, I recommend that the Hearings Panel:

Accept Waikato District Council [697.218] - to correct the numbering error of Rule 17.3.7.4 All heritage items – Maintenance or repair.

Accept Waikato District Council [697.416] - grammatical change to Rule 25.3.6.4.

Accept in part Heritage New Zealand Pouhere Taonga [559.114], [559.115], [559.116], [559.117], [559.118], [559.119] and [559.120] and Waikato District Council [697.288], [697.417], [697.815], [697.911] and [697.995], Heritage New Zealand Pouhere Taonga [FS/323.62], [FS/323.63], [FS/323.64], [FS/323.65] - the deletion of PI(a)(i) and amendments to Rules 16.3.11.4 PI, 17.3.8.4 PI, 18.3.10.4 PI, 20.3.5.4 PI, 22.3.8.4 PI, 23.3.9.4 PI, 24.3.8.4 PI and 25.3.6.4 PI.

Accept Heritage New Zealand Pouhere Taonga [559.121], [559.122], [559.123], [559.124], [559.125], [559.126] and [559.127] which seek the deletion of the following restricted discretionary rules: Rules 16.3.11.4 RDI, 17.3.8.4 RDI, 18.3.10.4 RDI, 20.3.5.4 RDI, 22.3.8.4 RDI, 23.3.9.4 RDI and 24.3.8.4 RDI.

Accept in part Waikato District Council [697.418], [697.655], [697.656], [697.816], [697.912], [697.913] and [697.996]; Heritage New Zealand Pouhere Taonga [FS/323.66], [FS/323.67], [FS/323.68] regarding amendments to Rules 16.3.11.3 RDI, 20.3.5.4 RDI, 22.3.8.4 RDI, 23.3.9.4 RDI, 24.3.8.4 RDI and 25.3.6.4 RDI.

7.5.5 Recommended amendments

345. The following amendments are recommended:
 Rule 16.3.11.4 All heritage items - Maintenance or repair

PI ⁵⁶	(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) must comply with all of the following conditions: (i) no significant feature of interest is destroyed or damaged; and (iii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.
RD ⁵⁷	(a) Any activity that does not comply with Rule 16.3.11.4 PI. (b) Council's discretion shall be restricted to the following matters: (i) form, style, materials, appearance; (ii) effects on heritage values.

Rule ~~17.3.7.4~~ 17.3.8.4⁵⁸ All heritage items - maintenance or repair

PI ⁵⁹	(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) must comply with the following conditions: (i) no significant feature of interest is destroyed or damaged; and (iii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.
RD ⁶⁰	(a) Any activity that does not comply with Rule 16.3.11.4 PI. (b) Council's discretion shall be restricted to the following matters: (i) form, style, materials, appearance; (ii) effects on heritage values.

Rule 18.3.10.4 All heritage items - maintenance or repair

PI ⁶¹	(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) where <u>must comply with the following condition:</u> (i) no significant feature of interest is destroyed or damaged; and (iii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.
RD ⁶²	(a) Any activity that does not comply with Rule 16.3.11.4 PI. (b) Council's discretion shall be restricted to the following matters: (i) form, style, materials, appearance; (ii) effects on heritage values.

Rule 20.3.5.4 All heritage items - maintenance or repair

PI ⁶³	(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage
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⁵⁶ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁵⁷ [559.121]

⁵⁸ [697.218]

⁵⁹ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁶⁰ [559.122]

⁶¹ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁶² [559.123]

	<p>Items) must comply with the following conditions:</p> <p>(i) no significant feature of interest is destroyed or damaged; and</p> <p>(ii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.</p>
RDI⁶⁴	<p>(a) Any activity that does not comply with Rule 16.3.11.4 PI.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <p>(i) form, style, materials, appearance;</p> <p>(ii) effects on heritage values.</p>

Rule 22.3.8.4 All heritage items - maintenance or repair

PI⁶⁵	<p>(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) where must comply with the following condition:</p> <p>(i) no significant feature of interest is destroyed or damaged;</p> <p>(ii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.</p>
RDI⁶⁶	<p>(a) Any activity that does not comply with Rule 16.3.11.4 PI.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <p>(i) form, style, materials, appearance;</p> <p>(ii) effects on heritage values.</p>

Rule 23.3.9.4 All heritage items - maintenance or repair

PI⁶⁷	<p>(a) Maintenance or repair of a heritage item listed in Schedule 30.1 (Heritage Items) <u>must</u> comply with the following conditions:</p> <p>(i) no significant feature of interest is destroyed or damaged;</p> <p>(ii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.</p>
RDI⁶⁸	<p>(a) Any activity that does not comply with Rule 16.3.11.4 PI.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <p>(i) form, style, materials, appearance;</p> <p>(ii) effects on heritage values.</p>

Rule 24.3.8.4 All heritage items - maintenance or repair

PI⁶⁹	(a) Maintenance and repair of a heritage item listed in Schedule 30.1 (Heritage
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⁶³ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁶⁴ [559.124]

⁶⁵ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁶⁶ [559.125]

⁶⁷ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁶⁸ [559.126]

	Items) where must comply with the following condition: (i) no significant feature of interest is destroyed or damaged; (ii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.
RD1 ⁷⁰	(a) Any activity that does not comply with Rule 16.3.11.4 PI. (b) Council's discretion shall be restricted to the following matters: (i) form, style, materials, appearance; (ii) effects on heritage values.

Rule 25.3.6.4 All heritage items - maintenance ~~and or~~ repair⁷¹

PI ⁷²	(a) Maintenance and or repair of a heritage item listed in Schedule 30.1 (Heritage Items) where must comply with the following condition: (i) no significant feature of interest is destroyed or damaged; (ii) (i) Replacement materials are the same as, or similar to, the original in terms of colour, texture, form and design to the original that it replaces form, style and appearance.
RD1 ⁷³	(a) Any activity that does not comply with Rule 16.3.11.4 PI. (b) Council's discretion shall be restricted to the following matters: (i) form, style, materials, appearance; (ii) effects on heritage values.

7.5.6 Section 32AA evaluation

Other reasonably-practicable options

346. The amendments to the zone rules All heritage items - maintenance or repair is considered to be the more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

347. The amendments improve the effectiveness of the rule and plan administration by ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of historic heritage, including notable trees, is a district-wide matter.

Costs and benefits

348. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the amendments proposed in all relevant zones to ensure clarity around how the effects will be managed.

Risk of acting or not acting

⁶⁹ [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁷⁰ [559.127]

⁷¹ [697.416]

⁷² [559.114], [559.115], [559.116], [559.117], [559.118], [559.119], [559.120], [697.288], [697.417], [697.815], [697.911] and [697.995]

⁷³ Consequential change as a result of [559.121], [559.122], [559.123], [559.124], [559.125], [559.126] and [559.127]

349. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to this rule to ensure consistency across all relevant zones.

Decision about most appropriate option

350. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

7.6 Development on a site containing a heritage item listed in Schedule 30.1

Zone	Rule
Residential	16.3.11.5
Business	17.3.7.5.
Business Town Centre	18.3.10.5
Industrial	20.3.5.5
Rural	22.3.8.5
Country Living	23.3.9.5
Village	24.3.8.5
Reserve	25.3.6.5

7.6.1 Introduction

351. Development on a site containing a heritage item listed in Schedule 30.1 is managed through the historic heritage rules in each of the above-listed zone chapters.

7.6.2 Submissions

352. Thirty submission points and eight further submission points were received seeking changes to the 'Development on a site containing a heritage item' rules.
353. The following submissions were made:

Submission point	Submitter	Summary of submission
559.128	Heritage New Zealand Pouhere Taonga	Deleted Rule 18.3.10.5 PI All heritage items – Site development.
559.129	Heritage New Zealand Pouhere Taonga	Delete Rule 22.3.8.5 PI All heritage items – Site development.
559.130	Heritage New Zealand Pouhere Taonga	Deleted Rule 23.3.9.5 PI All heritage items – Site development.
559.131	Heritage New Zealand Pouhere Taonga	Deleted Rule 24.3.8.5 PI All heritage items – Site development.
559.132	Heritage New Zealand Pouhere Taonga	Deleted Rule 20.3.5.5 PI All heritage items – Site development.
559.133	Heritage New Zealand	Retain Rule 18.3.10.5 RDI All heritage items – all

	Pouhere Taonga	<p>site development, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 18.3.10.5 RDI All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity <u>Site development is a restricted discretionary activity.</u> (a) <u>(b) Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting</p>
559.134	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 22.3.8.5 RDI All heritage items – all site development, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 22.3.8.5 RDI All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity <u>Site development is a restricted discretionary activity.</u> (a) <u>(b) Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting</p>
559.135	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 23.3.9.5 RDI All heritage items – all site development, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 23.3.9.5 RDI All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity <u>Site development is a restricted discretionary activity.</u> (a) <u>(b) Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting</p>
559.136	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 24.3.8.5 RDI All heritage items – all site development, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 24.3.8.5 RDI All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity</p>

		<p>activity <u>Site development is a restricted discretionary activity.</u> (a) <u>(b) Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting</p>
559.137	Heritage New Zealand Pouhere Taonga	Delete Rule 16.3.11.5 PI All heritage items – site development.
559.138	Heritage New Zealand Pouhere Taonga	Delete Rule 17.3.8.5 PI All heritage items – site development.
559.139	Heritage New Zealand Pouhere Taonga	Delete Rule 20.3.5.5 PI All heritage items – site development.
559.140	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 16.3.11.5 RDI All heritage items – all site development, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 16.3.11.5 RDI All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity <u>Site development is a restricted discretionary activity.</u> <u>(b) Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting, <u>including the area between the front of the heritage item and the road.</u></p>
559.141	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 17.3.8.5 RDI All heritage items – all site development, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 17.3.8.5 RDI All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity <u>Site development is a restricted discretionary activity.</u> <u>(b) Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting, <u>including the area between the front of the heritage item and the road.</u></p>
559.142	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 20.3.5.5 RDI All heritage items – all site development, except for the amendments sought below.</p> <p>AND</p>

		Amend Rule 20.3.5.5 RD1 All heritage items – all site development as follows: (a) Any activity that does not comply with a condition for a permitted activity <u>Site development is a restricted discretionary activity.</u> (b) <u>Discretion is restricted to:</u> (i) Effects on the values, context and setting of the heritage item (ii) Location, design, size, materials and finish (iii) Landscaping (iv) The relationship of the heritage item with the setting, <u>including the area between the front of the heritage item and the road.</u>
697.145	Waikato District Council	Amend Rule 16.3.11.5 All Heritage items – Site Development heading to read as follows: All heritage items – <u>all Site site</u> development
697.219	Waikato District Council	Amend Rule 17.3.7.5 – All heritage items – All site development, as follows: 17.3.7.5 All heritage items – All site development
697.289	Waikato District Council	Amend 18.3.10.5 Rule RD1 (b) (iv) All heritage items – all site development, to read as follows: The relationship of the heritage items with the setting <u>including the area between the heritage item and the road.</u>
FS1323.72	Heritage New Zealand Pouhere Taonga	oppose
FS1323.77	Heritage New Zealand Pouhere Taonga	That the amendment is supported
697.419	Waikato District Council	Amend Rule 25.3.6.5 PI (a) All heritage items – all site development, as follows: (a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) <u>must comply with the following conditions:</u> (i) Be set back at least 10m from the heritage item; <u>and</u> (ii) No locate a building between the front of the heritage item and the road.
FS1323.71	Heritage New Zealand Pouhere Taonga	oppose
697.420	Waikato District Council	Amend Rule 25.3.6.5 RD (b)(iv) All heritage items – all site development, as follows: (iv) The relationship of the heritage item with the setting <u>including the area between the front of the heritage item and the road.</u>
FS1323.75	Heritage New Zealand Pouhere Taonga	oppose
697.817	Waikato District Council	Amend Rule 22.3.8.5 PI (a) All heritage items – all site development, as follows: Development on a site containing a heritage item listed in Schedule 30.1 (Historic Heritage Items) must <u>comply with</u>

		<u>the following conditions:</u>
FS1323.69	Heritage New Zealand Pouhere Taonga	Oppose
697.818	Waikato District Council	Amend Rule 22.3.8.5 RDI (b) All heritage items – all site development, as follows: Council’s discretion is <u>shall be</u> restricted to the following matters:
697.819	Waikato District Council	Amend Rule 22.3.8.5 RDI (b) (iv) All heritage items – all site development, as follows: (iv) The relationship of the heritage item with the setting, <u>including the area between the front of the heritage item and the road.</u>
FS1323.73	Heritage New Zealand Pouhere Taonga	Oppose
697.914	Waikato District Council	Amend Rule 23.3.9.5 RDI (b) All heritage items – site development, as follows: Council’s discretion is <u>shall be</u> restricted to the following matters:
697.915	Waikato District Council	Amend Rule 23.3.9.5 All heritage items – site development heading, as follows: All heritage items – <u>all</u> site development
697.916	Waikato District Council	Amend Rule 23.3.9.5 RDI (b) (iv) All heritage items – site development: (iv) The relationship of the heritage item with the setting, <u>including the area between the front of the heritage item and the road.</u>
697.997	Waikato District Council	Amend Rule 24.3.8.5 PI (a) All heritage items – all site development, as follows: (a) Development on a heritage item listed in Schedule 30.1 (Heritage Items) must <u>comply with the following conditions:</u>
FS1323.70	Heritage New Zealand Pouhere Taonga	Oppose
697.998	Waikato District Council	Amend Rule 24.3.8.5 RDI (b)(iv) All heritage items – all site development, as follows: (iv) The relationship if the heritage item with the setting, <u>including the area between the front of the heritage item and the road.</u>
FS1323.74	Heritage New Zealand Pouhere Taonga	Oppose
831.36	Raglan Naturally	Retain and strengthen Rule 23.3.9.5 All heritage items – site development, to celebrate and protect archaeological sites.
FS1323.76	Heritage New Zealand Pouhere Taonga	Oppose
831.38	Raglan Naturally	Add rules within each zone to replicate Rule 23.3.9.5 All heritage items – site development,

		requiring that a development on a site containing a heritage item listed in Schedule 30 be set back at least 10m from the heritage item.
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7.6.3 Analysis

354. Raglan Naturally [831.36] and [831.38] seeks the retention of Rule 23.3.9.5 and Rule 23.3.9.5 requiring developments to be set back at least 10m from a heritage item, and for this rule to be replicated in all zones. No further action is required to address these submission points as all corresponding rules, as notified, contain the 10m setback rule. Heritage New Zealand Pouhere Taonga [FS/323.76] opposes submission point [831.36] due to their own submission points seeking the deletion of this rule.
355. Waikato District Council [697.145] and [697.915] ('WDC') seeks to amend the title of 16.3.11.5 and 23.3.9.5 to ensure alignment with the corresponding rules in the other zones that read: All heritage items – All Site site development. Clarifying its application will ensure good plan administration.
356. Waikato District Council [697.219] ('WDC') seeks to correct the incorrect numbering of Rule 17.3.7.5 All heritage items – All Site development. The rule should read 17.3.8.5 All heritage items – All Site development. Correcting this error will ensure good plan administration.
357. Waikato District Council [697.419], [697.817], [697.997] ('WDC') seek the addition of the phrase "*comply with the following conditions*" and the word "*and*" to Rule 25.3.6.5 PI; and the phrase "*comply with the following conditions*" to Rules 22.3.8.5PI and 24.3.8.5 PI to ensure alignment with other zone chapters. Heritage New Zealand Pouhere Taonga [FS/323.69], [FS/323.70] and [FS/323.71] opposes these submission points. The alignment of the wording of corresponding provisions ensures good plan administration.
358. Waikato District Council [697.818], [697.914] ('WDC') seek the deletion of the word 'is' and replacement with 'shall be' in the RDI(b) rule for the Rural and Country Living zones to ensure alignment with the other zone rules. Alignment of wording in the corresponding provisions ensures good plan administration. However, as notified, not all of the corresponding rules apply 'shall be'. For consistency it is considered appropriate to amend all of the 'all site development' rules to read 'shall be' for good plan administration.
359. Heritage New Zealand Pouhere Taonga [559.133], [559.134], [559.135], [559.136], [559.140], [559.141], [559.142] ('HNZPT') seek an amendment to the RDI rule for the Residential, Business, Business Town Centre, Industrial, Rural, Country Living and Village zones to reflect the deletion of PI, and make reference to the area between the front of the heritage item and the road.
360. Heritage New Zealand Pouhere Taonga [559.128], [559.129], [559.130], [559.131], [559.132], [559.137], [559.138], [559.139] ('HNZPT') seek the deletion of the PI rule from the Residential, Business, Business Town Centre, Industrial, Rural, Country Living and Village zones, because of the uncertainty on how the rule effectively protects a heritage item and its setting. HNZPT consider that the protection of heritage items from potential adverse effects of site development would be better achieved through "case by case analysis" because the "nature of the site development is not defined".⁷⁴
361. Waikato District Council [697.289], [697.420], [697.819], [697.916], [697.998] ('WDC') seek amendment of the text in RDI(b)(iv) rule in Business Town Centre, Rural, Country

⁷⁴ HNZPT Submission, #559, page 34.

Living, Village and Reserves zones to ensure alignment with the Residential, Business and Industrial zone rules. As notified, the corresponding rules in the latter three zones include reference to the area between the front of the heritage item and the road. Heritage New Zealand Pouhere Taonga [FS/323.72], [FS/323.73], [FS/323.74], [FS/323.75] and [FS/323.77] opposes these submission points.

362. This rule is presently used in the Waiakto section of the Operative District Plan, and has, in essence, been replicated in the PDP. The term ‘development’ in this rule is not defined in either the district’s operative or proposed district plans; nor is it defined in either the RMA or the National Planning Standards. Nevertheless, the term is widely used and understood to describe a myriad of activities that can occur on a site; for example the construction of buildings, the erection of fencing, or the planting of trees. Therefore, I consider it valid to consider what the term defines when considering the HNZPT request to delete the permitted activity rule.
363. Adding to the confusion around what the rule is trying to achieve is the 10 metre setback from the heritage item. Dr McEwan has advised that it is important to retain the setting of a heritage item, as identified and defined in the heritage reports for each of the scheduled items. Applying a minimum distance is problematic as it does not consider the setting of a heritage item. The rule was not recommended by Dr McEwan and she has raised concern that the rule could cause confusion as to the effect of the ‘extent of setting’, and ignores the importance of considering the heritage values of an item holistically, and how it would be impacted by additional development on site.
364. The importance of retaining the setting of a heritage item, along with the ongoing use of the site are important for the longevity of the heritage item. Accordingly, I consider that this rule requires greater clarity around what should be anticipated and therefore permitted; and what types of ‘development’ should be considered through a resource consent process to determine effects on the value, context and setting of the heritage item.
365. Accordingly, I recommend limiting the extent of development that can occur as a permitted activity of activities that do not constitute a building as defined in the district plan (refer to Hearing 5 - Definitions). Doing so will allow the construction of fencing and the landscaping of a site, or the construction of smaller structures that fall outside the definition of ‘building’.
366. Therefore, I recommend amending the PI rule in the Residential, Business, Business Town Centre, Industrial, Rural, Country Living and Village zones:

All heritage items - All site development

PI	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must comply with all of the following conditions:</p> <p>(i) be set back at least 10m from the heritage item; Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item.</p> <p>(ii) not locate a building between the front of the heritage item and the road.</p>
RDI	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule #####PI.</p> <p>(b) Council’s discretion shall be restricted to the following matters:</p> <p>(i) effects on the values, context and setting of the heritage item;</p> <p>(ii) location, design, size, materials and finish;</p> <p>(iii) landscaping;</p>

	(iv) The relationship of the heritage item with its the setting including the area between the front of the heritage item and the road.
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7.6.4 Recommendations

367. For the reasons given above, I recommend that the Hearings Panel:

Reject Raglan Naturally [831.36] and [831.38]; **Accept** Heritage New Zealand Pouhere Taonga [FS/323.76] - the retention of Rule 23.3.9.5 and Rule 23.3.9.5 requiring developments to be set back at least 10m from a heritage item, and that this rule be replicated in all zones.

Accept Waikato District Council [697.145] and [697.915] - to amend the title of 16.3.11.5 and 23.3.9.5 to ensure alignment with the corresponding rules in the other zones, so that they all read: All heritage items – All site development.

Accept Waikato District Council [697.219] - correct the numbering of Rule 17.3.7.5 All heritage items – All site development

Accept in part Waikato District Council [697.419], [697.817] and [697.997] and Heritage New Zealand Pouhere Taonga [FS/323.69], [FS/323.70] and [FS/323.71] - amendments to Rules 22.3.8.5PI, 24.3.8.5 PI and 25.3.6.5 PI.

Accept Waikato District Council [697.818] and [697.914] - the deletion of the word 'is' and replaced with 'shall be' in the RDI(b) rule for the Rural and Country Living zones to ensure alignment with the other zone chapters.

Accept in part Heritage New Zealand Pouhere Taonga [559.128], [559.129], [559.130], [559.131], [559.132], [559.137], [559.138] and [559.139] - seeking the deletion of the PI rule from the Residential, Business, Business Town Centre, Industrial, Rural, Country Living and Village zones.

Accept in part Heritage New Zealand Pouhere Taonga [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142] - amendment to the RDI rule for the Residential, Business, Business Town Centre, Industrial, Rural, Country Living and Village zones.

Accept in part Waikato District Council [697.289], [697.420], [697.819], [697.916] and [697.998] and Heritage New Zealand Pouhere Taonga [FS/323.72], [FS/323.73], [FS/323.74], [FS/323.75] and [FS/323.77] - the amendment to the text in RDI(b)(iv) rule in Business Town Centre, Rural, Country Living, Village and Reserves zones to ensure alignment with the Residential, Business and Industrial zone chapters.

7.6.5 Recommended amendments

368. The following amendments are recommended:

Rule 16.3.11.5 All heritage items - ~~all site~~ **Site**⁷⁵ development

PI ⁷⁶	(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must comply with all of the following conditions: <u>(i) Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item be set back at least 10m from the heritage item;</u> (ii) not locate a building between the front of the heritage item and
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⁷⁵ [697.145]

⁷⁶ [559.137]

	the road.
RD I ⁷⁷	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 16.3.11.5 PI.</p> <p>(b) Council's discretion is shall be⁷⁸ restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its the setting.

Rule ~~17.3.7.5~~ 17.3.8.5⁷⁹ All heritage items - All site development

PI ⁸⁰	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) shall must comply with the following condition:</p> <ul style="list-style-type: none"> (i) Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item; (ii) not locate a building between the front of the heritage item and the road.
RD I ⁸¹	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 17.3.7.5 PI.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its the setting including the area between the front of the heritage item and the road.⁸²

Rule 18.3.10.5 All heritage items - all site development

PI ⁸³	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must comply with the following condition:</p> <ul style="list-style-type: none"> (i) Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item; (ii) not locate a building between the front of the heritage item and the road.
RD I ⁸⁴	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 18.3.10.5 PI.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping;

⁷⁷ [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

⁷⁸ [697.818], [697.914]

⁷⁹ [697.219]

⁸⁰ [559.138]

⁸¹ [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

⁸² [FS1323.72], [FS1323.73], [FS1323.74], [FS1323.75] and [FS1323.77]

⁸³ [559.128]

⁸⁴ [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

	(iv) The relationship of the heritage item with its the setting.
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Rule 20.3.5.5 All heritage items - all site development

PI ⁸⁵	(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must comply with all of the following conditions: (i) <u>Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item;</u> (ii) not locate a building between the front of the heritage item and the road.
RDI ⁸⁶	(a) <u>Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 20.3.5.5 PI.</u> (b) Council's discretion is shall be ⁸⁷ restricted to the following matters: (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its the setting including the area between the front of the heritage item and the road. ⁸⁸

Rule 22.3.8.5 All heritage items - all site development

PI ⁸⁹	(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must <u>comply with the following condition:</u> ⁹⁰ (i) <u>Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item;</u> (ii) not locate a building between the front of the heritage item and the road.
RDI ⁹¹	(a) <u>Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 22.3.8.5 PI.</u> (b) Council's discretion is shall be ⁹² restricted to the following matters: (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its the setting.

Rule 23.3.9.5 All heritage items - ~~All~~ site development⁹³

PI ⁹⁴	(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must comply with all of the following conditions: (i) <u>Development does not involve the placement or construction of a</u>
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⁸⁵ [559.132] and [559.139]

⁸⁶ [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

⁸⁷ [697.818], [697.914]

⁸⁸ [FS1323.72], [FS1323.73], [FS1323.74], [FS1323.75] and [FS1323.77]

⁸⁹ [559.129]

⁹⁰ [697.817]

⁹¹ [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

⁹² [697.818]

⁹³ [697.915]

⁹⁴ [559.130]

	<p><u>building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item;</u></p> <p>(ii) not locate a building between the front of the heritage item and the road.</p>
RDI	<p>(a) <u>Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 23.3.9.5 PI.</u></p> <p>(b) Council's discretion is <u>shall be</u> ⁹⁵ restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its <u>the</u> setting.

Rule 24.3.8.5 All heritage items - all site development

PI ⁹⁶	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must <u>comply with the following condition</u>:⁹⁷</p> <ul style="list-style-type: none"> (i) <u>Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item;</u> (ii) not locate a building between the front of the heritage item and the road.
RDI ⁹⁸	<p>(a) <u>Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more conditions of Rule 24.3.8.5 PI.</u></p> <p>(b) Council's discretion is <u>shall be</u> ⁹⁹ restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its <u>the</u> setting.

Rule 25.3.6.5 All heritage items – all site development

PI ¹⁰⁰	<p>(a) Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) must <u>comply with the following condition</u>:¹⁰¹</p> <ul style="list-style-type: none"> (i) <u>Development does not involve the placement or construction of a building or buildings within the setting as defined in the Heritage Report for the heritage item. be set back at least 10m from the heritage item;</u> (ii) not locate a building between the front of the heritage item and the road.
RDI ¹⁰²	<p>(a) <u>Development on a site containing a heritage item listed in Schedule 30.1 (Heritage Items) Any activity that does not comply with one or more</u></p>

⁹⁵ [697.914]

⁹⁶ [559.131]

⁹⁷ [697.997]

⁹⁸ [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

⁹⁹ [697.818], [697.914]

¹⁰⁰ Consequential change

¹⁰¹ [697.419]

¹⁰² [559.133], [559.134], [559.135], [559.136], [559.140], [559.141] and [559.142]

	<p>conditions of Rule 25.3.6.5 Pl.</p> <p>(b) Council's discretion is <u>shall be</u> ¹⁰³ restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on the values, context and setting of the heritage item; (ii) location, design, size, materials and finish; (iii) landscaping; (iv) The relationship of the heritage item with its <u>the</u> setting.
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7.6.6 Section 32AA evaluation

Other reasonably-practicable options

369. The amendment to the zone rules: All heritage items - site development is considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

370. The amendments improve the effectiveness of the rule and plan administration by ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of historic heritage, including notable trees, is a district-wide matter.

Costs and benefits

371. There is greater clarity when an activity requires a resource consent, therefore costs are likely to be the same. There are benefits to the environment with the amendments proposed in all relevant zones to ensure clarity about how the effects will be managed.

Risk of acting or not acting

372. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to this rule to ensure consistency across all relevant zones.

Decision about most appropriate option

373. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

7.7 Building and vegetation in a battlefield view shaft area

Zone	Rule
Residential	16.3.3.2
Industrial Zone Heavy	21.3.5
Rural	22.3.4.4
Reserve	25.3.1.3

7.7.1 Introduction

374. Two battlefield viewshafts, notated on Planning Map 08.1 Meremere protect the view towards the historic battlefield areas associated with the Whangamarino Redoubt and Meremere Paa. These viewshafts overlay the Residential, Rural and Heavy Industrial zones

¹⁰³ [697.818], [697.914]

surrounding the Redoubt by applying a maximum building height within the view shaft area. The rules proposed in the PDP are the same as those presently applied under the Operative District Plan.

7.7.2 Submissions

375. Six submissions were received seeking changes to the ‘building and vegetation in a battlefield view shaft area’ rules as notified, relating to heritage items. Noting that only three have been identified to be addressed through this hearing - the others are under their respective zones. Nevertheless, to ensure rule consistency, all are considered below.

376. The following submissions were made:

Submission point	Submitter	Summary of submission
559.276	Heritage New Zealand Pouhere Taonga	Retain Rule 16.3.3.2 PI Height – building and vegetation in a battlefield view shaft area
559.277	Heritage New Zealand Pouhere Taonga	Retain Rule 22.3.4.4 PI Height – building and vegetation in a battlefield view shaft area
559.278	Heritage New Zealand Pouhere Taonga	Retain Rule 16.3.3.2 DI Height – building and vegetation in a battlefield view shaft area
559.279	Heritage New Zealand Pouhere Taonga	Retain Rule 22.3.4.4 DI Height – building and vegetation in a battlefield view shaft area
695.167	Sharp Planning Solutions Limited	Amend Rule 16.3.3.2 PI Building and vegetation in a battlefield view shaft area to have greater setbacks, rather than the 5m maximum height
695.213	Sharp Planning Solutions Limited	Amend Rule 22.3.4.4 PI Building and vegetation in a battlefield view shaft area to have greater setbacks, rather than the 5m maximum height

7.7.3 Analysis

377. Heritage New Zealand Pouhere Taonga [559.276], [559.277], [559.278] and [559.279] support and seek the retention of Rules 16.3.3.2 and Rule 22.3.4.4. I recommend that this submission be accepted.

378. Sharp Planning Solutions Limited [695.167] and [695.213] (‘SPSL’) seek the amendment of Rule 16.3.3.2 PI and Rule 22.3.4.4 PI. SPSL question how the rule, with a maximum height of 5m, is suitable for anything other than flat sites, suggesting the deletion of the height limit and replacing it with a greater setback within the notated view shaft as identified on Planning Map 08.1 Meremere (Figure 1). In SPSL’s opinion, a development on a steeply-sloped site is severely penalised and the 5m maximum height limit is too low to be practical. SPSL states that the “key issue is not the height of a dwelling but the view shaft around it. Greater setbacks could apply instead”.

379. In the PDP there are two battlefield view shafts, both notated on Planning Map 08.I Meremere, the view below being a portion of that planning map identifying the view shaft and the zoned land it relates to - Rural, Residential and Heavy Industrial.

Figure I: Battlefield View Shafts, Planning Map 08.I



380. The height rule for buildings and vegetation in the battlefield view shaft areas is the same for the Residential, Rural and Reserve zones. However, in the Heavy Industrial Zone, which has not been challenged through submissions, the rule states that buildings and vegetation in the view shafts are not to obscure views of the Waikato River or the Whangamarino Redoubt from Meremere Paa/Redoubt.¹⁰⁴
381. A view shaft rule specifically protects the views of an identified area, natural form or structure. Ensuring that these views are not impacted upon is important to enable the appreciation of the link between the site and its surroundings. The two view shafts identified in the PDP relate to physical features that have connection to known historical battles. These features have historical significance as battles rarely leave visible signs. The features in the Meremere battlefield view shafts provide the visual link between redoubts within battlefields involved in the 1860s land conflicts. The splay of the view shaft ensures that the feature can be appreciated from different viewpoints. Therefore, I don't consider that

¹⁰⁴ Rule 21.3.5 Building, structure or vegetation within battlefield Viewshafts, Chapter 21, Industrial Zone Heavy, Waikato District Proposed District Plan (Stage 1), 2018

applying a setback from the Redoubt, as suggested by SPSL, would ensure the protection of heritage significance of the area; and would not address the ability to retain those visual links between redoubts, battlefields and the Waikato River to ensure full appreciation of the history in this area.

382. Therefore, I recommend no change to either Rule 16.3.3.2 or Rule 22.3.4.4.

7.7.4 Recommendations

383. For the reasons given above, I recommend that the Hearings Panel:

Accept Heritage New Zealand Pouhere Taonga [559.276], [559.277], [559.278] and [559.279].

Reject Sharp Planning Solutions Limited [695.167] and [695.213].

7.7.5 Recommended amendments

384. No amendments are required to either Rule 16.3.3.2 or Rule 22.3.4.4.

7.7.6 Section 32AA evaluation

385. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

7.8 Subdivision of land containing a heritage item listed in Schedule 30.1

Zone	Rule
Residential	16.4.10
Business	17.4.1.5
Business Town Centre	18.4.6
Industrial	20.4.5
Rural	22.4.8
Country Living	23.4.6
Village	24.4.8

7.8.1 Introduction

386. The subdivision of the setting of a heritage item is specifically managed to ensure that heritage values for which the heritage item has been scheduled are not eroded as a result of an unsympathetic subdivision.

7.8.2 Submissions

387. Eighteen submission points and one further submission point were received seeking changes to the subdivision rules relating to heritage items.

388. The following submissions were made:

Submission point	Submitter	Summary of submission
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330.121	Andrew & Christine Gore	No specific decision sought, however submission refers to Rule 23.4.6 Subdivision of land containing heritage items
559.246	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 17.4.1.5 RDI Subdivision of land containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 17.4.1.5 RDI Subdivision of land containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 17.4.1.5 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.247	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 18.4.6 RDI Subdivision of land containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 18.4.6 RDI Subdivision of land containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 18.4.6 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.248	Heritage New Zealand	Retain Rule 20.4.5 RDI Subdivision of land

	Pouhere Taonga	<p>containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 20.4.5 RDI Subdivision of land containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 20.4.5 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.249	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 23.4.6 RDI Subdivision of land containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 23.4.6 RDI Subdivision of land containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 23.4.6 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.250	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 24.4.8 RDI Subdivision of land containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 24.4.8 RDI Subdivision of land</p>

		<p>containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 24.4.8 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.251	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 16.4.10 RDI Subdivision of land containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 16.4.10 RDI Subdivision of land containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 16.4.10 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.252	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 22.4.8 RDI Subdivision of land containing a heritage item, except for the amendments fought below.</p> <p>AND</p> <p>Amend Rule 22.4.8 RDI Subdivision of land containing a heritage item as follows:</p> <p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items)</p> <p>(b) Council's discretion is restricted to the following matters:</p>

		<p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item;</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p> <p>AND</p> <p>Amend Rule 22.4.8 RDI Subdivision of land containing a heritage items to be consistent with the equivalent rules on other zone chapters, including heritage items being retained in one lot.</p>
559.253	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 17.4.1.5 NCI Subdivision – land containing heritage items, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 17.4.1.5 NCI Subdivision – land containing heritage items to be consistent with the equivalent rules in other zone chapters.</p>
559.254	Heritage New Zealand Pouhere Taonga	<p>Amend Rule 18.4.6 DI Subdivision – land containing heritage items to reflect a non-complying activity status for proposals that cannot achieve compliance with Rule 18.4.6 RDI.</p>
559.255	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 20.4.5 NCI Subdivision – land containing heritage items, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 20.4.5 NCI Subdivision – land containing heritage items to be consistent with the equivalent rules in other zone chapters.</p>
559.256	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 23.4.6 NCI Subdivision – land containing heritage items, except for the amendments sought below.</p> <p>AND</p> <p>Amend Rule 23.4.6 NCI Subdivision – land containing heritage items to be consistent with the equivalent rules in other zone chapters.</p>
559.257	Heritage New Zealand Pouhere Taonga	<p>Amend Rule 24.4.8 DCI Subdivision - land containing heritage items to reflect a non-complying activity status for proposals that cannot achieve compliance with Rule 24.4.8 RDI.</p>
559.258	Heritage New Zealand Pouhere Taonga	<p>Retain Rule 16.4.10 NCI Subdivision - land containing heritage items.</p> <p>AND</p> <p>Amend Rule 16.4.10 NCI Subdivision - land containing heritage items to be consistent with the equivalent rules in other chapters</p>
559.259	Heritage New Zealand	<p>Amend Rule 22.4.8 NCI Subdivision - land</p>

	Pouhere Taonga	containing heritage items AND Amend Rule 22.4.8 NCI Subdivision - land containing heritage items to be consistent with the equivalent rules in other chapters
697.230	Waikato District Council	Rule 17.4.1.5 NCI Subdivision - land containing heritage items, to be a Discretionary Activity rather than Non-complying as follows: Rule 17.4.1.5 NCI Subdivision that does not comply with Rule 17.4.1.5 RDI
697.669	Waikato District Council	Amend Rule 20.4.5 RDI Subdivision of land containing a heritage item, as follows: (a) <u>the boundaries of every proposed lot must not divide any of the following:</u> (i) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items) where the heritage item is wholly contained within one lot; (ii) <u>Maaori sites of significance as identified in Schedule 30.3 (Maaori sites of significance)</u> (iii) <u>Maaori areas of significance as identified in Schedule 30.4 (Maaori areas of significance)</u> . (a) Council's discretion is restricted to the following matters: (i) effects on heritage values; (ii) context and setting of the heritage item; and (iii) the extent to which the relationship of the heritage item within its setting is maintained.
<i>FS1323.79</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support</i>
697.838	Waikato District Council	Amend Rule 22.4.8 - Subdivision of land containing heritage item heading as follows: Subdivision of land containing a heritage item

7.8.3 Analysis

389. Andrew and Christine Gore [330.121] submission references all rules (e.g. Rules “22.3 up to and including 22.3.85”). They have not provided any specific text pertaining to heritage. Therefore there are no matters to address in this section 42a report.
390. Waikato District Council [697.838] seeks amendment to Rule 22.4.8 to correct an editorial error. Therefore, I recommend that the submission point be accepted.
391. Heritage New Zealand Pouhere Taonga [559.246], [559.247], [559.248], [559.248], [559.250], [559.251] and [559.252] (‘HNZPT’) supports the retention of the restricted discretionary activity status, with the amendment of the matters of discretion to ensure that the setting of the heritage item is also protected in Rules 16.4.10 RDI, 17.4.1.5 RDI, 18.4.6 RDI, 20.4.5 RDI, 22.4.8 RDI, 23.4.6 RDI and 24.4.8 RDI.
392. Waikato District Council [697.669] (‘WDC’) seek amendments to the text of Rule 20.4.5 RDI to address the protection of historic heritage. Heritage New Zealand Pouhere Taonga [FS1323.79] supports the submission from WDC.

393. Heritage New Zealand Pouhere Taonga [559.253], [559.255], [559.256], [559.258] and [559.259] ('HNZPT') seeks the retention of the non-complying activity status of Rules 16.4.10 NCI, 17.4.1.5 NCI, 20.4.5 NCI, 22.4.8 NCI and 23.4.6 NCI; and Heritage New Zealand Pouhere Taonga [559.254] and [559.257] ('HNZPT') seeks amendment of the discretionary activity status to non-complying activity in Rules 18.4.6 DI, and 24.4.8 DI. Waikato District Council [697.230] ('WDC') seek the amendment of the non-complying activity status to discretionary activity in Rule 17.4.1.5 NCI.
394. Subdivision of land sets the scene for future development, the intensification of land, and how existing features of that land are managed. Therefore, the protection of existing features, such as scheduled heritage items and their settings, Maaori sites and areas of significance, notable trees and natural areas must be addressed.
395. HNZPT outlines in their submission points that the assessment criteria for restricted discretionary activities should ensure the retention of a heritage item and its identified setting (identified on the Heritage record for each scheduled item) to best achieve the protection of the item's heritage values. To achieve this, HNZPT seek the inclusion of wording to ensure that the setting and item remain within one lot. WDC's proposed amendments to Rule 20.4.5 RDI is to provide greater clarity for the management of historic heritage when considering the subdivision of industrial-zoned land. The relief sought through these submission points will, in my opinion, achieve both the purpose and direction of sections 6(e) and 6(f) of the RMA to ensure the protection of historic heritage from subdivision, use and development is adequately considered when both preparing and assessing subdivision proposals.
396. WDC and HNZPT differ on the activity status once moving from restricted discretionary status in the business zone. WDC seeks a discretionary activity status under the Business zone because, in their opinion, "discretionary is a more appropriate activity cascade for subdivisions that cannot meet the conditions" in Rule 17.4.1.5 RDI.¹⁰⁵ While HNZPT seeks the retention, or for the non-complying activity status to be applied to all zones.
397. Policy 7.1.5 (a) as notified, requires that subdivision and development do not compromise and are sympathetic to the existing historic heritage items. As notified, there is no consistency in the activity status once a subdivision does not meet the conditions for a restricted discretionary activity: in the Residential, Business, Industrial, Rural and Country Living zones those subdivisions are non-complying activities; while in the Business Town Centre and Village zones they cascade to a discretionary activity. WDC has only sought to change the activity status for the Business Zone. HNZPT's relief ensures consistency across all zones by applying the non-complying activity status to both the Business and Village zones. In their opinion, the non-complying activity status "will assist to ensure that the heritage values of the heritage item with its setting are maintained".¹⁰⁶ The PDP framework for the management of historic heritage is consistent across all zones when considering all other activities. Unfortunately, the s.32 Report does not address why there is a difference in the activity status for subdivision. Without that explanation, and to ensure the continued consistency in the protection and management of historic heritage across all zones, the activity status for all zones should be the same.
398. Therefore, I recommend that the activity status in the Business and Village zones be amended to be a non-complying activity.

¹⁰⁵ WDC submission [697], page 269

¹⁰⁶ HNZPT submission [559], page 39

7.8.4 Recommendations

399. For the reasons given above, I recommend that the Hearings Panel:

Reject Andrew and Christine Gore [330.121].

Accept Waikato District Council [697.838] - amendment to Rule 22.4.8.

Accept Waikato District Council [697.669] and Heritage New Zealand Pouhere Taonga [FS/323.79] amendments to Rule 20.4.5 RDI.

Accept Heritage New Zealand Pouhere Taonga [559.246], [559.247], [559.248], [559.249], [559.250], [559.251] and [559.252] ('HNZPT') - the retention of the restricted discretionary activity status with the amendment of the matters of discretion to ensure that the setting of the heritage item is also protected in Rules 16.4.10 RDI, 17.4.1.5 RDI, 18.4.6 RDI, 20.4.5 RDI, 22.4.8 RDI, 23.4.6 RDI and 24.4.8 RDI.

Accept Heritage New Zealand Pouhere Taonga [559.253], [559.254], [559.255], [559.256], [559.257], [559.258] and [559.259] - the retention of the non-complying activity status of Rules 16.4.10 NCI, 17.4.1.5 NCI, 20.4.5 NCI, 22.4.8 NCI and 23.4.6 NCI; and amendment of the discretionary activity status to non-complying activity in Rules 18.4.6 DI, and 24.4.8 DI.

Reject Waikato District Council [697.230] - no change to the non-complying activity status in Rule 17.4.1.5 NCI.

7.8.5 Recommended amendments

400. The following amendments are recommended:

16.4.10 Subdivision of land containing heritage items¹⁰⁷

RDI	(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items). (b) Council's discretion shall be restricted to the following matters: (i) Effects on heritage values; (ii) Context and setting of the heritage item; and (iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u> .
NCI	Subdivision that does not comply with Rule 16.4.10 RDI.

17.4.1.5 Subdivision - land containing heritage items¹⁰⁸

RDI	(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items) where the heritage item is wholly contained within one lot. (b) The Council's discretion shall be limited to the following matters: (i) Effects on heritage values; (ii) Context and setting of the heritage item; (iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u> .
NCI	Subdivision that does not comply with Rule 17.4.1.4 RDI.

¹⁰⁷ [559.251]

¹⁰⁸ [559.246]

18.4.6 Subdivision - land containing heritage items¹⁰⁹

RD1	<p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items), where the heritage item is wholly contained within one lot.</p> <p>(b) The Council's discretion is limited to the following matters:</p> <ul style="list-style-type: none"> (i) Effects on heritage values; (ii) Context and setting of the heritage item; (iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.
DI NCI	Subdivision that does not comply with Rule 18.4.6 RD1.

20.4.5 Subdivision of land containing a heritage item¹¹⁰

RD1	<p>(a) The boundaries of every proposed lot must not divide any of the following:</p> <ul style="list-style-type: none"> (i) Subdivision of land containing a A heritage item listed in Schedule 30.1 (Heritage Items). where the heritage item is wholly contained within one lot. (ii) Maaori sites of significance as identified in Schedule 30.3 (Maori sites of significance) (iii) Maaori area of significance in Schedule 30.4 (Maori areas of significance) <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on heritage values; (ii) context and setting of the heritage item; and (iii) the extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.
NCI	Subdivision that does not comply with Rule 20.4.5 RD1.

22.4.8 Subdivision of land containing heritage items¹¹¹

RD1	<p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Historic Heritage Items).</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Effects on heritage values; (ii) Context and setting of the heritage item; (iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.
NCI	Subdivision that does not comply with Rule 22.4.8 RD1.

23.4.6 Subdivision of land containing heritage items¹¹²

RD1	<p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items) must contain the heritage item wholly within one lot.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Effects on heritage values; (ii) Context and setting of the heritage item;
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¹⁰⁹ [559.247] and [559.254]

¹¹⁰ [559.248], [697.667] and [FS1323.79]

¹¹¹ [559.252]

¹¹² [559.249]

	(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u> .
NCI	Subdivision that does not comply with Rule 23.4.6 RDI.

24.4.8 Subdivision of land containing heritage items¹¹³

RDI	<p>(a) Subdivision of land containing a heritage item listed in Schedule 30.1 (Heritage Items) must contain the heritage item wholly within one lot.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) Effects on heritage values;</p> <p>(ii) Context and setting of the heritage item; and</p> <p>(iii) The extent to which the relationship of the heritage item with its setting is maintained <u>within one lot</u>.</p>
D+N NCI	Subdivision that does not comply with Rule 24.4.8 RDI.

7.8.6 Section 32AA evaluation

Other reasonably-practicable options

401. The amendments to the subdivision zone rules are considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

402. The amendments improve the effectiveness of the rule and plan administration in ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of historic heritage, including notable trees is a district wide matter.

Costs and benefits

403. The costs are likely to be the same. There are benefits for the environment with the amendments proposed in all relevant zones to ensure clarity around how the effects will be managed.

Risk of acting or not acting

404. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to this rule to ensure consistency across all relevant zones.

Decision about most appropriate option

405. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

7.9 Removal or destruction of a notable tree identified in Schedule 30.2

Zone	Rule
Residential	16.2.6.1

¹¹³ [559.250] and [559.257]

Business	17.2.6.1
Business Town Centre	18.2.6.1
Rural	22.2.5.1
Country Living	23.2.5.1
Village	24.2.6.1
Reserve	25.2.6.1

7.9.1 Introduction

406. The destruction or removal of a notable tree is managed through a permitted activity status if a notable tree has been professionally assessed by an arborist as being dead, dying, diseased or unsafe. Removal or destruction that does not comply with the criteria for a permitted activity under the Residential, Business Town Centre, Rural, and Country Living zones would be a restricted discretionary activity; while under the Business and Village zones a controlled activity; and under the Reserve zone a discretionary activity.

7.9.2 Submissions

407. There are six submission points relating to the removal or destruction of a notable tree.
408. The following submissions were made:

Submission point	Submitter	Summary of submission
697.187	Waikato District Council	Amend Rule 17.2.6.1 PI Notable Tree – removal or destruction, as follows: Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council by a works arborists that states that the tree is dead, dying, diseased or is unsafe <u>in accordance with Appendix 11 Tree Removal Certificate</u> .
697.188	Waikato District Council	Amend Rule 17.2.6.1 CI Notable Tree – removal or destruction, as follows: RDI (a) Removal or destruction of a tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 17.2.6.1 PI. (b) Council's control <u>discretion</u> is <u>restricted</u> limited to the following matters: (i) Timing and manner in which the activity is carried out; (ii) Effects on amenity values; and (iii) Effects on heritage values.
697.874	Waikato District Council	Amend Rule 23.2.5.1 RDI(b)(i) Notable tree – removal or destruction, as follows: (i) timing and manner in which the activity is carried out; <u>and</u>
697.963	Waikato District Council	Amend Rule 24.2.6.1 CI Notable tree – removal or destruction, as follows: CI <u>RDI</u> (a) Removal or destruction of a tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 24.2.6.1 PI. (b) Council shall reserve its

		control over <u>restrict its discretion</u> to the following matters: (i) timing and manner in which the activity is carried out; (ii) Effects on amenity values; and (iii) Effects on heritage values.
697.1034	Waikato District Council	Amend 25.2.6.1 Notable Trees, as follows: PI Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council by a works arborist that states that the tree is dead, dying, diseased or is unsafe <u>in accordance with Appendix 11 Tree Removal Certificate.</u> OR RD1 (a) Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 25.2.6.1 PI (b) <u>The Council's discretion is restricted to the following matters: (i) Timing and manner in which the activity is carried out; (ii) Effects on amenity values; (iii) Effects on heritage values.</u>
742.184	New Zealand Transport Agency	Amend the mapped location of Notable Tree #146 currently shown on State Highway 23 and map this tree in its correction location. OR Add to Rule 22.2.5.1 RD (b) a new matter of discretion as follows: <u>(iv) safety and efficiency of the transport network.</u> AND Add to Rule 22.2.5.2 RD1 (b) Notable Tree – removal or destruction a new matter of discretion as follows: <u>(iv) safety and efficiency of the transport network.</u> AND Request any consequential changes necessary to give effect to the relief sought in the submission..

7.9.3 Analysis

409. Waikato District Council [697.187], [697.188], [697.874], [697.963] and [697.1034] seek the alignment of activity status and the language used in the zone rule for removal and destruction to be the same across all of the zones; and to reflect the wording and activity status set out in Rule 16. 2.6.1, 18.2.6.1 and 22.2.5.1, for example:

16.2.6.1 Notable tree - removal or destruction

<i>PI</i>	<i>Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council from a works arborist that states that the tree is dead, dying, diseased or is unsafe in accordance with Appendix 11 Tree Removal Certificate.</i>
<i>RD1</i>	<i>(a) Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 16.2.6.1 PI.</i>

	<p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out; (ii) Effects on amenity values; and (iii) Effects on heritage values.
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410. The alignment of activity status and the wording of the rules will ensure that correct planning terminology is used and will remove unintended differences between the rules when they are to manage the same effects. Therefore, I recommend that Rules 17.2.6.1, 24.2.6.1 and 25.2.6.1 be amended to reflect the *removal and destruction* rule, as notified, for the Residential, Business Town Centre, Country Living and Rural zones, to ensure consistency and good plan administration.
411. New Zealand Transport Agency [742.184] ('NZTA') seeks an additional matter of discretion in the Rural Zone (Rule 22.2.5.2) to address instances when a notable tree may need to be removed to ensure the safety and efficiency of the transport network. This submission point relates specifically to an individual scheduled notable tree - ID #146 - which is located in the road corridor of State Highway 23 (refer to Figures 2A and 2B).

Figure 2A: Location of Notable Tree ID#146

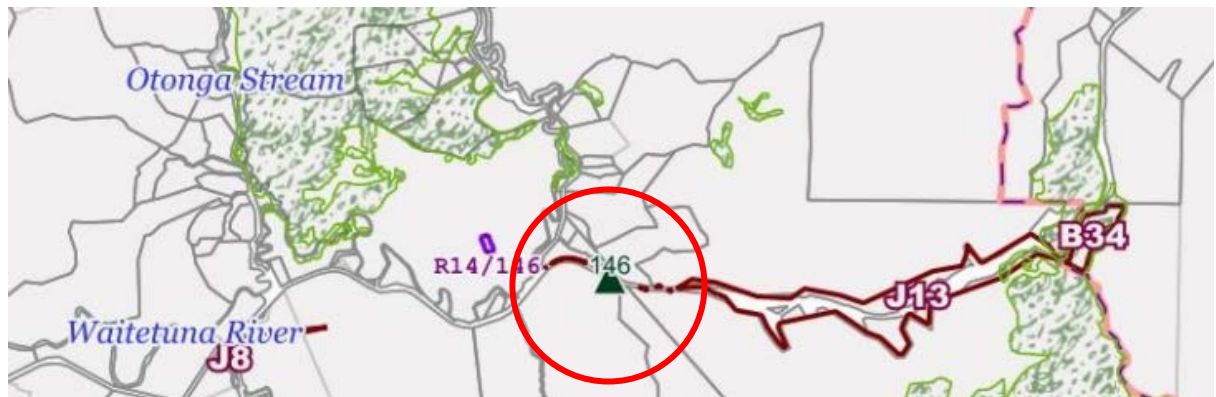


Figure 2B: Aerial identifying location of notable tree ID#146



412. WDC's arborists have advised that this tree has coexisted with the road for decades, and in their opinion the tree can appropriately be retained and maintained without jeopardising the road network. I defer to their expertise and knowledge of both the tree and its surroundings. The rules for removal of a notable tree provides the platform for setting out reasons for removal without the need to specifically set a matter of discretion - being the safety and efficiency of the transport network. I consider that this matter could be canvassed, and effects addressed on a case-by-case basis. I recommend that there be no change to either Rule 22.2.5.2, the Planning Map notation location or Schedule 30.2 in regard to Notable Tree ID# 146.

7.9.4 Recommendations

413. For the reason outlined above, I recommend that the Hearings Panel:

Accept Waikato District Council [697.187], [697.188], [697.874], [697.963] and [697.1034] activity status, wording consistency of the removal and destruction rule throughout all zones.

Reject New Zealand Transport Agency [742.184] - Notable Tree ID#146.

7.9.5 Recommended amendments

414. The following amendments are recommended:

Rule 17.2.6.1 Notable tree – removal or destruction

PI	Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council from a works arborist that states that the tree is dead, dying, diseased or unsafe <u>in accordance with Appendix 11 Tree Removal Certificate</u> . ¹¹⁴
CI-RDI ¹¹⁵	<p>(a) Removal or destruction of a tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 17.2.6.1 PI.</p> <p>(b) Council's control discretion is limited restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out; (ii) Effects on amenity values; and (iii) Effects on heritage values.

Rule 24.2.6.1 Notable tree – removal or destruction

PI	Removal or destruction of a tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council from a works arborist that states the tree is dead, dying, diseased or is unsafe.
CI-RDI ¹¹⁶	<p>(a) Removal or destruction of a tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 24.2.6.1 PI.</p> <p>(b) Council's discretion is shall reserve its control over <u>restricted to</u> the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out; (ii) Effects on amenity values; and (iii) Effects on heritage values.

¹¹⁴ [697.187]

¹¹⁵ [697.188]

¹¹⁶ [697.963]

Rule 25.2.6.1 Notable tree – removal or destruction

PI	Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) where certification is provided to Council by a works arborist that states the tree is dead, dying, diseased or is unsafe.
DI RDI ¹¹⁷	<p>(a) Removal or destruction of a notable tree identified in Schedule 30.2 (Notable Trees) that does not comply with Rule 25.2.6.1 PI</p> <p>b) <u>Council's discretion is restricted to the following matters:</u></p> <p>(i) <u>Timing and manner in which the activity is carried out;</u></p> <p>(ii) <u>Effects on amenity values; and</u></p> <p>(iii) <u>Effects on heritage values.</u></p>

7.9.6 Section 32AA evaluation

Other reasonably-practicable options

415. The amendment is considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

416. The recommended amendments to the Notable tree – removal or destruction zone rule give effect to ensuring the management of legislative requirements that have the potential to impact on historic heritage that includes notable trees. The amendments improve the effectiveness of the rule and plan administration in ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of historic heritage, including notable trees, is a district-wide matter.

Costs and benefits

417. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the amendments proposed to the same rule in all relevant zones to ensure clarity about how the effects will be managed.

Risk of acting or not acting

418. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to this rule to ensure consistency across all relevant zones.

Decision about most appropriate option

419. The amendments to the Notable tree – removal or destruction zone rule is considered to strengthen the rule's ability to appropriately achieve the district plan's policy direction for the protection of notable trees.

7.10 Trimming of a notable tree identified in Schedule 30.2

Zone	Rule
Residential	16.2.6.2
Business	17.2.6.2

¹¹⁷ [697.1034]

Business Town Centre	18.2.6.2
Rural	22.2.5.2
Country Living	23.2.5.2
Village	24.2.6.2
Reserve	25.2.6.2

7.10.1 Introduction

420. The trimming of a notable tree is managed through a permitted activity status that sets the parameter for which works can occur before a resource consent is required, and the works assessed and undertaken by an arborist.

7.10.2 Submissions

421. There are fourteen submission points relating the trimming of a notable tree.
422. The following submissions were made:

Submission point	Submitter	Summary of submission
367.24	Mercer Residents and Ratepayers Committee	Amend Rule 16.2.6.2 Notable tree- trimming, to provide clarification in terms of residents who have overhanging or growth of trees interfering with another residents notable tree
697.116	Waikato District Council	Amend Rule 16.2.6.2 RDI(b)(i) Notable tree – trimming to read as follows: (i) Timing and manner in which the activity is carried out; <u>and</u>
697.268	Waikato District Council	Delete Rule 18.2.6.2 Restricted Discretionary Activities Rule RDI(b)(ii) Effects on public safety.
697.326	Waikato District Council	Amend Rule 16.2.6.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and replace with the most appropriate percentage
697.471	Waikato District Council	Amend Rule 17.2.6.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and the most appropriate percentage
697.472	Waikato District Council	Amend Rule 18.2.6.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and the most appropriate percentage
697.473	Waikato District Council	Amend Rule 22.2.5.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and the most

		appropriate percentage
697.474	Waikato District Council	Amend Rule 23.2.5.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and the most appropriate percentage
697.475	Waikato District Council	Amend Rule 24.2.6.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and the most appropriate percentage
697.476	Waikato District Council	Amend Rule 25.2.6.2 PI (a) (ii) Notable tree – trimming, to consider whether 10% removal of foliage as a permitted activity condition is the most appropriate measure, and the most appropriate percentage
697.779	Waikato District Council	Amend Rule 22.2.5.2 RD I (b) (i) Notable tree – trimming, as follows: (i) timing and manner in which the activity is carried out and by whom; and
697.780	Waikato District Council	Delete Rule 22.2.5.2 RD I (b) (ii) Notable tree - trimming
697.875	Waikato District Council	Amend Rule 23.2.5.2 RD I (b)(i) Notable tree – trimming, as follows: (i) Timing and manner in which the activity is carried out; <u>and</u>
697.964	Waikato District Council	Amend Rule 24.2.6.2 RD I (b) (i) Notable tree – trimming, as follows: (i) timing and manner in which the activity is carried out; <u>and</u>
697.1035	Waikato District Council	Amend Rule 25.2.6.2 RD I Notable Tree – trimming, as follows: (a) The trimming of a notable tree that does not comply with a condition in Rule 25.2.6.2 PI. (b) The Council's discretion is limited to the following matters: (i) Timing and manner in which the activity is carried out and by whom; and

7.10.3 Analysis

423. Mercer Residents and Ratepayers Committee [367.24] seek the amendment to Rule 16.2.6.2 to address the management of other vegetation that interferes with a notable tree. The reason for the relief sought is that there are presently no rules or guidelines for residents covering their rights and limitations around notable trees that are hanging over boundaries or have growth interfering with another resident's notable tree.
424. The management of trees across property boundaries is a civil matter between the land owners. However, the district plan provisions for the management and protection of notable trees apply to the tree as a whole, so while the district planning maps locate a notable tree on a particular site, if the tree's dripline goes beyond the property boundary, the same rules

apply. In my opinion, the existing plan provisions adequately address the management of notable tree(s).

425. Waikato District Council [697.116], [697.268], [697.779], [697.780], [697.875], [697.964], and [697.1035] ('WDC') seek editorial amendments to the Notable tree - trimming rule in the Residential, Business Town Centre, Rural, Country Living, Village and Reserve zones to ensure that there is consistency in rule structure and alignment with the matters of discretion. I recommend the adoption of these editorial amendments to ensure good plan administration and clarity for plan users.
426. Waikato District Council [697.326], [697.471], [697.472], [697.473], [697.474], [697.475] and [697.476] seek the reconsideration of the appropriateness of foliage removal, and the most appropriate percentage that should be applied.
427. The Notable tree – trimming rule, as notified states:

PI	(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either: (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at the point of severance and no more than 10% of live foliage growth is removed in any single consecutive 12 month period.
RDI	(a) The trimming of a notable tree that does not comply with Rule 17.2.6.2 PI. (b) Council's discretion is limited to the following matters: (i) Timing and manner in which the activity is carried out; and (ii) Effects on amenity values

428. Council's arborists, Mr Kevin Gordon and Mr Grant Sirl, have reviewed the proposed rule and best practice applied by other local authorities and advised that it is important that the extent of works that can be undertaken are measurable to avoid impacts on the health of the tree. They have confirmed the use of the 10 percent foliage removal limit when applying the following two provisions:

- *The tree work must meet best arboricultural practices; and*
- *All trimming or alteration must retain the natural shape, form and branch habit of the tree.*

429. I defer to their expertise in this matter. The matters that they recommend provide, in my opinion, greater clarity that is measurable, to determine the extent of works that can occur as a permitted activity. Accordingly, I recommend the following amendments to the rule; and a consequential amendment to the RDI matters of discretion:

430. The Notable tree – trimming rule:

PI	(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either: (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at the point of severance; <u>and</u> (iii) <u>No</u> no more than 10% of live foliage growth is removed in any single consecutive 12 month period; and
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	<p><u>(iv) The tree work must meet best arboricultural practices; and</u></p> <p><u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u></p>
RD1	<p>(a) The trimming of a notable tree that does not comply with Rule XXXXXPI.</p> <p>(b) Council's discretion is limited to the following matters:</p> <p>(i) Timing and manner in which the activity is carried out; and</p> <p>(ii) Effects on amenity values; <u>and</u></p> <p><u>(iii) Effects on heritage values; and</u></p> <p><u>(iii) Effects on the natural shape, form and branch habit of the tree.</u></p>

7.10.4 Recommendations

431. For the reason outlined above, I recommend that the Hearings Panel:

Reject Mercer Residents and Ratepayers Committee [367.24]

Accept Waikato District Council [697.116] - amend Rule 16.2.6.2 RD1 (b)(i)

Accept Waikato District Council [697.268] - deletion of Rule 18.2.6.2 RD1(b)(ii)

Accept Waikato District Council [697.779] - amend Rule 22.252 RD1 (b)(i)

Accept Waikato District Council [697.780] - deletion of Rule 22.252 RD1 (b)(ii)

Accept Waikato District Council [697.875] - amend Rule 23.252 RD1 (b)(i)

Accept Waikato District Council [697.964] - amend Rule 24.2.6 RD1 (b)(i)

Accept Waikato District Council [697.1035] - amend Rule 25.2.6.2 RD1(b)(i)

Accept Waikato District Council [697.326] - amend Rule 16.2.6.2

Accept Waikato District Council [697.471] - amend Rule 17.2.6.2

Accept Waikato District Council [697.472] - amend Rule 18.2.6.2

Accept Waikato District Council [697.473] - amend Rule 22.2.5.2

Accept Waikato District Council [697.474] - amend Rule 23.2.5.2

Accept Waikato District Council [697.475] - amend Rule 24.2.6.2

Accept Waikato District Council [697.476] - amend Rule 25.2.6.2.

7.10.5 Recommended amendments

432. The following amendments are recommended:

Rule 16.2.6.2 Notable tree – Trimming¹¹⁸

PI	<p>(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either:</p> <p>(i) to remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or</p> <p>(ii) the maximum branch diameter does not exceed 50mm at <u>the point of severance</u>; and</p> <p><u>(iii) No more than 10% of live foliage growth is removed in any single</u></p>
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¹¹⁸ [697.326]

	consecutive 12 month period-; <u>and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	(a) The trimming of a notable tree that does not comply with Rule 16.2.6.2. PI. (b) Council's discretion is restricted to the following matters: (i) Timing and manner in which the activity is carried out; <u>and</u> ¹¹⁹ (ii) Effects on amenity values; <u>and</u> <u>(iii) Effects on heritage values; and</u> <u>(iii) Effects on the natural shape, form and branch habit of the tree.</u>

Rule 17.2.6.2 Notable tree – trimming¹²⁰

PI	(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either: (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at the point of severance; and <u>(iii) No more than 10% of live foliage growth is removed in any single consecutive 12 month period-; and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	(a) The trimming of a notable tree that does not comply with Rule 17.2.6.2 PI. (b) Council's discretion is limited to the following matters: (i) Timing and manner in which the activity is carried out; and (ii) Effects on amenity values; <u>and</u> <u>(iii) Effects on heritage values; and</u> <u>(iv) Effects on the natural shape, form and branch habit of the tree.</u>

Rule 18.2.6.2 Notable tree – trimming ¹²¹

PI	(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either: (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at the point of severance; and <u>(iii) No more than 10% of live foliage growth is removed in any single consecutive 12 month period-; and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	(a) The trimming of a notable tree that does not comply with Rule 18.2.6.2 PI.

¹¹⁹ [697.116]

¹²⁰ [697.471]

¹²¹ [697.472]

	<p>(b) The Council's discretion is limited to the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out and by whom; (ii) Effects on public safety; (iii) Effects on amenity values; <u>and</u> <u>(iv) Effects on heritage values; and</u> <u>(v) Effects on the natural shape, form and branch habit of the tree.</u>
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Rule 22.2.5.2 Notable tree - trimming¹²²

PI	<p>(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either:</p> <ul style="list-style-type: none"> (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at the point of severance; and <u>(iii) No more than 10% of live foliage growth is removed in any single 12 month period; and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	<p>(a) The trimming of a notable tree that does not comply with Rule 22.2.5.2 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) timing and manner in which the activity is carried out and by whom; and (ii) health of the tree;¹²³ (iii) effects on amenity values; <u>and</u> <u>(iv) Effects on heritage values; and</u> <u>(v) Effects on the natural shape, form and branch habit of the tree.</u>

Rule 23.2.5.2 Notable tree - trimming¹²⁴

PI	<p>(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either:</p> <ul style="list-style-type: none"> (i) to remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) the maximum branch diameter does not exceed 50mm at the point of severance; and <u>(iii) No more than 10% of live foliage growth is removed in any single consecutive 12 month period; and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	<p>(a) The trimming of a notable tree that does not comply with Rule 23.2.5.2 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out; <u>and</u>¹²⁵

¹²² [697.473]

¹²³ [697.779]

¹²⁴ [697.474]

¹²⁵ [697.875]

	<ul style="list-style-type: none"> (ii) Effects on amenity values; <u>and</u> <u>(iii) Effects on heritage values; and</u> <u>(iv) Effects on the natural shape, form and branch habit of the tree.</u>
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Rule 24.2.6.2 Notable tree – trimming¹²⁶

PI	<p>(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) is either:</p> <ul style="list-style-type: none"> (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or (ii) The maximum branch diameter does not exceed 50mm at severance; <u>and</u> <u>(iii) No more more than 10% of live foliage growth is removed in any consecutive 12 month period; and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	<p>(a) The trimming of a notable tree that does not comply with Rule 24.2.6.2 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out; <u>and</u> ¹²⁷ (ii) Effects on amenity values; <u>and</u> <u>(iii) Effects on heritage values; and</u> <u>(iv) Effects on the natural shape, form and branch habit of the tree.</u>

Rule 25.2.6.2 Notable tree - trimming¹²⁸

PI	<p>(a) The trimming of a notable tree identified in Schedule 30.2 (Notable Trees) must:</p> <ul style="list-style-type: none"> (i) Be to remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; and (ii) Not remove branches with a diameter greater than 50mm at the point of severance; <u>and</u> <u>(iii) No more more than 10% of live foliage growth is removed in any consecutive 12 month period; and</u> <u>(iv) The tree work must meet best arboricultural practices; and</u> <u>(v) All trimming or alteration must retain the natural shape, form and branch habit of the tree.</u>
RDI	<p>(a) The trimming of a notable tree that does not comply with a condition in Rule 25.2.6.2 PI.¹²⁹</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Timing and manner in which the activity is carried out and by whom; <u>and</u> ¹³⁰ (ii) Effects on amenity values; <u>and</u> <u>(iii) Effects on heritage values; and</u> <u>(iv) Effects on the natural shape, form and branch habit of the tree.</u>

¹²⁶ [697.475]

¹²⁷ [697.964]

¹²⁸ [697.476]

¹²⁹ [697.1035]

¹³⁰ [697.1035]

7.10.6 Section 32AA evaluation

Other reasonably-practicable options

433. The amendment is considered to be the more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

434. The recommended amendments to the *Notable tree – trimming* zone rule allow general management of the vegetation while avoiding the potential to impact on the STEM values that the tree(s) has been scheduled for. The amendments improve the effectiveness of the rule and plan administration in ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of notable trees is a district-wide matter.

Costs and benefits

435. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the amendments proposed to the same rule in all relevant zones to ensure clarity about how the effects will be managed.

Risk of acting or not acting

436. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to this rule to ensure consistency across all relevant zones.

Decision about most appropriate option

437. The amendments to the *Notable tree – trimming* zone rule are considered to strengthen the rule's ability to appropriately achieve the district plan's policy direction for the protection of notable trees, and appropriately achieves the purpose of the RMA.

7.11 Any activity within the dripline of a notable tree identified in Schedule 30.2

Zone	Rule
Residential	16.2.6.3
Business	17.2.6.3
Business Town Centre	18.2.6.3
Rural	22.2.5.3
Country Living	23.2.5.3
Village	24.2.6.3
Reserve	25.2.6.3

7.11.1 Introduction

438. The health of a tree can be severely impacted upon through poorly-managed activities occurring within the dripline area of the tree. It is important therefore to ensure that such works do not occur without clear direction on what is acceptable for a notable tree. The zone rule *Any activity within the dripline of a notable tree* is managed through a permitted

activity status, and cascades to a restricted discretionary activity if proposed works do not comply with the criteria for a permitted activity.

7.1.1.2 Submissions

439. There are thirteen submission points and one further submission point on the zone rules for activities within the dripline of a notable tree in Schedule 30.2 (Notable Trees).

440. The following submissions were made:

Submission point	Submitter	Summary of submission
697.117	Waikato District Council	Amend Rule 16.2.6.3 PI (a) Notable Tree – Activities within the drip line as follows: (a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must <u>not</u> comply with all of the following conditions: (i) No involve excavation, compaction, sealing or soil disturbance and or placement of fill material or cleanfill, except for the sealing of an existing road or footpath; (ii) No involve parking or storage of materials, vehicles or machinery; (iii) Discharge of an eco-toxic substance; and (iv) No involve construction of structures
697.118	Waikato District Council	Amend Rule 16.2.6.3 PI (a) (i) Notable Tree – Activities within the dripline as follows: (i) No excavation, compaction, sealing or soil disturbance and placement of fill material <u>or</u> cleanfill , except for the sealing of an existing road or footpath;
697.119	Waikato District Council	Amend Rule 16.2.6.3 RDI (a) Notable Tree – Activities within the dripline to read as follows: (A) Any activity <u>within the dripline of the notable tree</u> that does not comply with Rules 16.2.6.3 PI.
697.189	Waikato District Council	Amend Rule 17.2.6.3 PI Notable Trees – Activities within the dripline, as follows: (a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not: (i) Involve excavation, compaction, sealing or soil disturbance and or placement of full material <u>or</u> cleanfill , except for the sealing of an existing road or footpath;
697.269	Waikato District Council	Amend Rule 18.2.6.3 PI Notable Tree – activities within the dripline, as follows: (a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) complies with the following conditions <u>must</u> not: (i) No Involve excavation, compaction, sealing or soil disturbance and or placement of fill material, <u>or</u>

		<u>cleanfill</u> except for the sealing of an existing road or footpath; and (ii) No <u>Involve</u> parking or storage of materials, vehicle or machinery; and (iii) No discharge of an eco-toxic substance; and (iv) No <u>Involve construction</u> of structures. RDI (a) Any activity <u>within the dripline of a notable tree</u> that does not comply with Rule 18.2.6.3 PI.
697.781	Waikato District Council	Amend Rule 22.2.5.3 PI (i) Notable tree – activities within the dripline, as follows: (i) Involve excavation, compaction, sealing or soil disturbance and placement of full material, <u>or cleanfill</u> , except for sealing of an existing road or footpath; and
697.782	Waikato District Council	Amend Rule 22.2.5.3 RDI (a) Notable tree – activities within the dripline, as follows: (a) Any activity <u>within the dripline of the notable tree</u> that does not comply with Rule 22.2.5.3 PI.
697.876	Waikato District Council	Amend Rule 23.2.5.3 PI (a) Notable tree – activities within the dripline, as follows: (a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not involve : (i) <u>Involve</u> excavation, compaction, sealing or soil disturbance and or <u>or</u> placement of fill material, <u>or cleanfill</u> , except for sealing of an existing road or footpath; (ii) <u>Involve</u> parking or storage of materials, vehicles or machinery; (iii) discharge of an eco-toxic substance; and (iv) <u>Involve</u> construction of any structure.
<i>FS1035.104</i>	<i>Pareoranga Te Kata</i>	<i>Support</i>
697.877	Waikato District Council	Amend Rule 23.2.5.3 RDI (a) Notable tree – activities within the dripline, as follows: (b) Any activity <u>within the dripline of the notable tree</u> that does not comply with Rule 23.2.5.3 PI.
697.965	Waikato District Council	Amend Rule 24.2.6.3 PI (a)(i) Notable tree – activities within the dripline, to read as follows: (i) Involve excavation, compaction, sealing or soil disturbance and or <u>or</u> placement of fill material, <u>or cleanfill</u> except for sealing of an existing road or footpath.
697.966	Waikato District Council	Amend Rule 24.2.6.3 RDI (a) Notable Tree – activity within the dripline, and follows: (a) Any activity <u>within the dripline of the notable tree</u> that does not comply with Rule 24.2.6.3 PI.
697.1036	Waikato District Council	Amend Rule 25.2.6.3 PI Notable tree – activities within the dripline as follows: (a) Any activity within the dripline of a notable tree identified in

		Schedule 30.2 (Notable Trees) must not: (i) Involve excavation, compaction, sealing or soil disturbance and or <u>or</u> placement of fill material <u>or</u> cleanfill, except for the sealing of an existing road or footpath: RDI (a) Any activity <u>within the dripline of a notable tree</u> that does not comply with one or more conditions in Rule 25.2.6.3 PI
946.7	Dee Bond	Amend Rule 16.2.6.3 PI (a)(iii) Notable tree – Activities within the dripline, as follows: (iii) No discharge of an eco-toxic substance

7.1.1.3 Analysis

441. Waikato District Council [697.117], [697.118], [697.119], [697.189], [697.269], [697.781], [697.782], [697.876], [697.877], [697.965], [697.966] and [697.1036] ('WDC') seek editorial amendments to the Notable Tree - activities within the dripline of a notable tree rule in the Residential, Business, Business Town Centre, Rural, Country Living, Village and Reserve zones to ensure that there is consistency in rule structure and alignment with the matters of discretion. I recommend the adoption of these editorial amendments to ensure good plan administration and clarity for plan users. Pareoranga Te Kata [FS1035.104] supports WDC submission point [697.876].
442. Dee Bond [946.7] requests an amendment to Rule 16.2.6.3 to clarify that there be no discharge of eco-toxic substances. Presently the wording states "(iii) Discharge of an eco-toxic substance"; this is the same or similar wording in the other zone rules for activities within the dripline of a notable tree. However, when considering the wording amendments sought by WDC to ensure alignment of plan provisions and good plan administration, the adoption of Dee Bond's relief would be appropriate. I would recommend amending Rule 16.2.6.3(iii), and the consequential amendment to the activities within the dripline of a notable tree in all other relevant zones to ensure alignment. The amendment is to read:

iii) Discharge of an eco-toxic substance; and

7.1.1.4 Recommendations

443. For the reason outlined above, I recommend that the Hearings Panel:
- Accept** Waikato District Council [697.117] - amend Rule 16.2.6.3 PI (a)
 - Accept** Waikato District Council [697.118] - amend Rule 16.2.6.3 PI (a)(i)
 - Accept** Waikato District Council [697.119] - amend Rule 16.2.6.3 RDI (a)
 - Accept** Waikato District Council [697.189] - amend Rule 17.2.6.3 PI (a)(i)
 - Accept** Waikato District Council [697.269] - amend Rule 18.2.6.3
 - Accept** Waikato District Council [697.781] - amend Rule 22.2.5.3 PI (a)(i)
 - Accept** Waikato District Council [697.782] - amend Rule 22.2.5.3 RDI (a)
 - Accept** Waikato District Council [697.876] and Pareoranga Te Kata [FS1035.104] - amend Rule 23.2.5.3 PI (a)
 - Accept** Waikato District Council [697.877] - amend Rule 23.2.5.3 RD(a)
 - Accept** Waikato District Council [697.965] - amend Rule 24.2.6.3 PI (a)(i)

Accept Waikato District Council [697.966] - amend 24.2.6.3 RD1(a)

Accept Waikato District Council [697.1036] - amend Rule 25.2.6.3

Accept in part Dee Bond [946.7] - amend Rule 16.2.6.3 PI(a)(iii).

7.1.1.5 Recommended amendments

444. The following amendments are recommended:

Rule 16.2.6.3 Notable tree – Activities within the dripline¹³¹

PI	<p>(a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not comply with all of the following conditions:</p> <p>(i) No involve excavation, compaction, sealing or soil disturbance and or placement of fill material or cleanfill, except for the sealing of an existing road or footpath;</p> <p>(ii) No involve parking or storage of materials, vehicles or machinery;</p> <p>(iii) Discharge of an eco-toxic substance; and¹³²</p> <p>(iv) No involve construction of structures.</p>
RD1	<p>(a) Any activity within the dripline of the notable tree that does not comply with Rule 16.2.6.3 PI.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <p>(i) Location of activity in relation to the tree;</p> <p>(ii) Timing and manner in which the activity is carried out;</p> <p>(iii) Remedial measures;</p> <p>(iv) Effect on the health of the tree; and</p> <p>(v) Amenity values.</p>

Rule 17.2.6.3 Notable tree – activities within the dripline¹³³

PI	<p>(a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not:</p> <p>(i) Involve excavation, compaction, sealing or soil disturbance and or placement of fill material or cleanfill, except for the sealing of an existing road or footpath;</p> <p>(ii) Involve parking or storage of materials, vehicles or machinery;</p> <p>(iii) Discharge of an eco-toxic substance; and¹³⁴</p> <p>(iv) Involve construction of structures.</p>
RD1	<p>(a) Any activity within the dripline of a notable tree that does not comply with Rule 17.2.6.3 PI.</p> <p>(b) Council's discretion is limited to the following matters:</p> <p>(i) Location of the activity in relation to the tree;</p> <p>(ii) Timing and manner in which the activity is carried out;</p> <p>(iii) Remedial measures;</p> <p>(iv) Effect on the health of the tree;</p>

¹³¹ [697.117], [697.118], [697.119]

¹³² [946.7]

¹³³ [697.189]

¹³⁴ [946.7]

	(v) Amenity values.
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Rule 18.2.6.3 Notable tree - activities within the dripline¹³⁵

PI	<p>(a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) complies with the following conditions must not:</p> <p>(i) No involve excavation, compaction, sealing or soil disturbance and or placement of fill material or cleanfill, except for the sealing of an existing road or footpath; and</p> <p>(ii) No involve parking or storage of materials, vehicles or machinery; and</p> <p>(iii) No discharge of an eco-toxic substance; and ¹³⁶</p> <p>(iv) No involve construction of structures.</p>
RD1	<p>(a) Any activity within the dripline of a notable tree that does not comply with Rule 18.2.6.3 PI.</p> <p>(b) The Council's discretion is limited to the following matters:</p> <p>(i) Location of activity in relation to the tree;</p> <p>(ii) Timing and manner in which the activity is carried out;</p> <p>(iii) Remedial measures;</p> <p>(iv) Effect on the health of the tree;</p> <p>(v) Amenity values.</p>

Rule 22.2.5.3 Notable tree activities within the dripline¹³⁷

PI	<p>(a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not:</p> <p>(i) Involve excavation, compaction, sealing or soil disturbance and or placement of fill material or cleanfill, except for sealing of an existing road or footpath; and</p> <p>(ii) Involve parking or storage of materials, vehicles or machinery; and</p> <p>(iii) Discharge an eco-toxic substance; and</p> <p>(iv) Involve construction of structures.</p>
RD1	<p>(a) Any activity within the dripline of a notable tree that does not comply with Rule 22.2.5.3 PI</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) location of activity in relation to the tree;</p> <p>(ii) timing and manner in which the activity is carried out ;</p> <p>(iii) remedial measures;</p> <p>(iv) effect on the health of the tree;</p> <p>(v) amenity values.</p>

Rule 23.2.5.3 Notable tree activities within the dripline¹³⁸

PI	<p>(a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not involve:</p>
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¹³⁵ [697.269]

¹³⁶ [946.7]

¹³⁷ [697.781], [697.782]

¹³⁸ [697.876], [697.877]

	<ul style="list-style-type: none"> (i) <u>involve</u> excavation, compaction, sealing or soil disturbance and or placement of fill material <u>or cleanfill</u>, except for sealing of an existing road or footpath; (ii) <u>involve</u> parking or storage of materials, vehicles or machinery; (iii) discharge of an eco-toxic substance; and¹³⁹ (iv) <u>involve</u> construction of any structure.
RD1	<ul style="list-style-type: none"> (a) Any activity <u>within the dripline of a notable tree</u> that does not comply with Rule 23.2.5.3 PI. (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) location of activity in relation to the notable tree; (ii) timing and manner in which the activity is carried out; (iii) remedial measures; (iv) effect on the health of the notable tree; (v) amenity values.

Rule 24.2.6.3 Notable tree – activities within the dripline¹⁴⁰

PI	<ul style="list-style-type: none"> (a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not: <ul style="list-style-type: none"> (i) Involve excavation, compaction, sealing or soil disturbance and or placement of fill material <u>or cleanfill</u>, except for sealing of an existing road or footpath; (ii) Involve parking or storage of materials, vehicles or machinery; (iii) Discharge of an eco-toxic substance; and ¹⁴¹ (iv) Involve construction of structures.
RD1	<ul style="list-style-type: none"> (a) Any activity <u>within the dripline of a notable tree</u> that does not comply with Rule 24.2.6.3 PI. (b) Council's discretion is restricted to the following matters: <ul style="list-style-type: none"> (i) Location of activity in relation to the tree; (ii) Timing and manner in which the activity is carried out; (iii) Remedial measures; (iv) Protection of the tree; and (v) Amenity values.

Rule 25.2.6.3 Notable tree activities within the dripline¹⁴²

PI	<ul style="list-style-type: none"> (a) Any activity within the dripline of a notable tree identified in Schedule 30.2 (Notable Trees) must not: <ul style="list-style-type: none"> (i) Involve excavation, compaction, sealing or soil disturbance and or placement of fill material <u>or cleanfill</u>, except for sealing of an existing road or footpath; (ii) Involve parking or storage of materials, vehicles or machinery; (iii) Discharge of an eco-toxic substance <u>and</u>; ¹⁴³ (iv) Involve construction of structures.
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¹³⁹ [946.7]

¹⁴⁰ [697.965]

¹⁴¹ [946.7]

¹⁴² [697.1036]

¹⁴³ [946.7]

RDI	<p>(a) Any activity <u>within the dripline of a notable tree</u> that does not comply with one or more conditions in Rule 25.2.6.3 PI</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Location of activity in relation to the tree; (ii) Timing and manner in which the activity is carried out; (iii) Remedial measures; (iv) Effects on health of the tree; (v) Amenity values
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7.11.6 Section 32AA evaluation

Other reasonably-practicable options

445. The amendment is considered to be the more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

446. The recommended amendments to the *Notable tree – any activity within the dripline of a notable tree* zone rule improve the effectiveness of the rule and plan administration, in ensuring that the activity status and matters of discretion are consistently applied across all zones, as the protection of notable trees is a district-wide matter.

Costs and benefits

447. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the amendments proposed to the same rule in all relevant zones, to ensure clarity about how the effects will be managed.

Risk of acting or not acting

448. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to this rule to ensure consistency across all relevant zones.

Decision about most appropriate option

449. The amendments to the *Notable tree – any activity within the dripline of a notable tree* zone rule is considered to strengthen the rule's ability to appropriately achieve the district plan's policy direction for the protection of notable trees, and appropriately achieves the purpose of the RMA.

8 Heritage Precinct Design Guide

8.1.1 Introduction

450. There are two heritage precinct design guides in the proposed district plan - Appendix 3.5 - Huntly Heritage Precinct Design Guide and Appendix 3.6 Matangi Heritage Design Guide. Both design guides outline the settings, setbacks, materials and architectural forms that are to be protected, along with how new builds, and additions and alterations to existing buildings, should occur.

8.1.2 Submissions

451. Ten submission points and six further submission points have been made relating to either the planning provisions pertaining to the application of the existing design guides, or the provision of additional heritage design guides for Raglan and Rangiriri.
452. The following submissions and further submissions were made:

Submission point	Submitter	Summary of submission
264.1	Cathy Miller	Add the Heritage Precinct Guide from the Operative District Plan for Rangiriri, and include the corner of Murphy Street and Rangiriri Road, neighbouring the cemetery and all properties exposed to the SH1 side on Austen Street.
FS1386.272	Mercury NZ Limited	Oppose
559.143	Heritage New Zealand Pouhere Taonga	Amend Rule 16.3.11.6 CI Heritage Precincts – Matangi and Huntly by changing the activity status from a Controlled Activity to a Restricted Discretionary Activity AND Amend Rule 16.3.11.6 CI (b) Heritage Precincts – Matangi and Huntly as follows: (a) Construction of a building in the Matangi and Huntly Heritage Precincts identified on the planning maps that is set back at least 8m from road boundaries. (b) Council's control <u>discretion</u> is reserved over the following matters: (i) effects on historic heritage, amenity values and character of the precinct; and (ii) Building height, side setbacks, scale, form, materials and architectural style to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide)
559.215	Heritage New Zealand Pouhere Taonga	Add to the Proposed District Planning Maps the Rangiriri Heritage precinct. AND Add to the Proposed District Plan the Rangiriri Heritage Precinct and the associated rule

		framework as per the Operative Plan.
<i>FS1388.810</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
559.243	Heritage New Zealand Pouhere Taonga	Amend Rule 16.3.11.6 C2 Heritage Precincts – Matangi and Huntly by changing the activity status from a Controlled Activity to a Restricted Discretionary Activity. AND Amend Rule 16.3.11.6 C2(b) Heritage Precincts – Matangi and Huntly as follows: (a) Alteration of a building in the Matangi or Huntly Heritage Precincts identified on the planning maps. (b) Council's <u>discretion controls</u> will be reserved over the following matters:...
559.244	Heritage New Zealand Pouhere Taonga	Amend Rule 16.3.11.6 C3 Heritage Precincts – Matangi and Huntly by changing the activity status from a Controlled Activity to a Restricted Discretionary Activity. AND Amend Rule 16.3.11.6 C3 (a) as follows: (a) Attachment Placement of an advertising sign(s) to be a building or located within 8 m setback from the road boundaries in the Matangi or Huntly Heritage Precincts identified on the planning maps.
559.245	Heritage New Zealand Pouhere Taonga	Delete Rule 16.3.11.6 RDI Heritage Precincts – Matangi and Huntly.
620.1	Waikato District Heritage Forum	Add the Rangiriri Heritage Precinct Design Guide to the Proposed District Plan as currently included in the Operative District Plan (Rule 23.62 and Appendix D in Part 3) around the Rangiriri Hotel and village, Rangiriri Road and Talbot Street.
<i>FS1035.103</i>	<i>Pareoranga Te Kata</i>	<i>Support</i>
<i>FS1123.1</i>	<i>Christine Madsen</i>	<i>Support</i>
<i>FS1123.2</i>	<i>Christine Madsen</i>	<i>Support</i>
749.117	Housing New Zealand Corporation	Amend Rule 16.3.11.6 Heritage precincts – Matangi and Huntly as follows: C1...(b) Council's control is reserved over the following matters: (i) Effects on historic heritage, amenity values and character of the precinct ; andC2 ...(b) Council's control is reserved over the following matters: (i) Effects on historic heritage, amenity values and characters of the precinct ; and ...C3...(b) Council's control is reserved over the following matters: (i) Effects on historic heritage, amenity values and character of the precinct ; and ...RDI...(b) Council's discretion

		shall be restricted to the following matters: (i) Effects on historic heritage, amenity values and character of the precinct ; and... AND Amend the Proposed District Plan as consequential or additional relief as necessary to address the matters raised in the submission as necessary.
980.1	Christine Madsen	Add a Heritage Precinct for Rangiriri to Section 7.1 Protection of Historic Heritage and Notable Trees; AND Add to the Proposed District Plan maps a Rangiriri Precinct to include the area opposite Rangiriri Tavern adjacent to the historic cemetery along to Murphy Street and the area on the same side of Rangiriri Road as the tavern towards Te Wheoro's Redoubt
<i>FS1323.50</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support</i>

8.1.3 Analysis

453. Cathy Miller [264.1], Heritage New Zealand Pouhere Taonga [559.215], Waikato District Heritage Forum [620.1] and Christine Madsen [980.1] seek the addition of a heritage precinct and an associated design guide for Rangiriri to replicate the locality and the provisions of the Rangiriri Heritage Precinct Design Guide in Appendix D of the Operative District Plan. The further submissions from Pareoranga Te Kata [*FS1035.103*], Christine Madsen [*FS1123.1*] and [*FS1123.2*] support Waikato District Heritage Forum's submission; and Christine Madsen's submission is supported by Heritage New Zealand Pouhere Taonga [*FS1323.50*].
454. Council's heritage expert, Dr Ann McEwan, has reviewed these specific requests and I defer to her expertise for the following recommendation.¹⁴⁴
455. Dr McEwan highlights that the existing heritage precinct design guide for Rangiriri in the Operative District Plan is in reality a village design guide concerned with historic character and amenity predicated upon one single scheduled heritage building - the Rangiriri Tavern (Operative District Plan, Schedule C1 Historic Heritage Items, #15; and Proposed District Plan, Schedule 30.1 Historic Heritage Items ID# 50). In accordance with Dr McEwan's 2017 recommendation, the Rangiriri Maori War and Early Settlers' Cemetery Arch & Boundary Wall (1926) (Proposed District Plan, Schedule 30.1 Historic Heritage Items ID# 49) was scheduled. However, Dr McEwan has advised that the existence of these two heritage items should not constitute the basis for a heritage precinct.
456. Therefore, it is recommended these submissions and further submissions be rejected.

¹⁴⁴ McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submission [115.1]

457. Heritage New Zealand Pouhere Taonga [559.143], [559.243], [559.244] and [559.245], and Housing New Zealand Corporation [749.117] seek changes to Rule 16.3.11.6. Heritage Precincts – Matangi and Huntly.
458. Housing New Zealand seeks the limiting of matters for consideration for both the controlled and restricted discretionary activities to effects on historic heritage only. The anticipated outcomes outlined by Policy 7.4.1 – Matangi and Huntly Heritage Precinct state that the introduction of either new buildings, or the addition or alteration of existing buildings within either of these precincts, are to take into account both character and heritage values. The removal of the text “amenity values and character” would mean that any development would not need to be compatible with the setting of the overall precinct. Such an outcome would be contrary to Policy 7.1.4.¹⁴⁵
459. HNZPT seeks to change the activity status from Controlled Activity to Restricted Discretionary for each of the activities listed in Rule 16.3.11.6 to enable a proposal to be declined if it significantly impacts the heritage items.
460. The intent of the precincts is to ensure that there is a holistic approach to protecting both the character and heritage values specific to those particular areas. The design guides set out the parameters whereby development can occur while not impacting on the existing character and heritage values. Rules 16.3.11.3 C1, C2 and C3 address three different aspects: construction of a building in the precinct; additions and alterations to buildings; and the location of advertising signage. While the intent of Rule 16.3.11.6 RDI is to address any proposal that does not achieve the intent of C1, C2 or C3. However, I consider that it could be misinterpreted as to when the RDI would apply, due to the actual sentence structure of the rule. Presently the rule states :

16.3.11.6 Heritage precincts – Matangi and Huntly	
C1	<p>(a) Construction of a building in the Matangi or Huntly Heritage Precincts identified on the planning maps that is set back at least 8m from road boundaries.</p> <p>(b) Council’s control is reserved over the following matters:</p> <ul style="list-style-type: none"> (i) Effects on historic heritage, amenity values and character of the precinct; and (ii) Building height, side setbacks, scale, form, materials and architectural style to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide).
C2	<p>(a) Alteration of a building in the Matangi or Huntly Heritage Precincts identified on the planning maps.</p> <p>(b) Council’s control is reserved over the following matters:</p> <ul style="list-style-type: none"> (i) Effects on historic heritage, amenity values and character of the precinct; and (ii) Building height, side setbacks, scale, form, materials and architectural style

¹⁴⁵ 7.1.4 Policy – Matangi and Huntly Heritage precinct

(a) Ensure the design of new buildings and structures and external alterations or additions to buildings are compatible with the setting, scale, detailing, style, materials and character of the precinct and protect heritage values within:

- (i) Matangi Heritage Precinct
- (ii) Huntly Heritage Precinct.

	to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide).
C3	<p>(a) Attachment of an advertising sign(s) to a building or located within the 8m setback from road boundaries in the Matangi or Huntly Heritage Precincts identified on the planning maps.</p> <p>(b) Council's control is reserved over the following matters:</p> <ul style="list-style-type: none"> (i) Effects on historic heritage, amenity values and character of the precinct; and (ii) Advertising signs.
RDI	<p>(a) Construction alteration of to a building in the Matangi Heritage Precinct or the Huntly Heritage Precinct identified on the planning maps that does not comply with Rule 16.3.11.6 C1, C2 or C3.</p> <p>(b) Council's discretion shall be restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Effects on historic heritage, amenity values and character of the precinct; (ii) Building height, side setbacks, scale, form, materials and architectural style to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide); (iii) Advertising signs; and (iv) Setback from road boundaries

461. I consider that the existing rule framework would benefit from the structure proposed by HNZPT - removing the controlled activity status and applying a revised RDI rule to capture new builds, additions and alterations to existing buildings and the erection of signage. This would also remove any potential conflict regarding administration of the plan when considering whether a proposal affects the historic amenity values and character of a precinct or is consistent with the precinct design guides. Removing the two-step activity framework is effective in the management of the identified heritage values and character and efficient for plan users. There is a clear direction that a resource consent is required, and the discretion that Council has.
462. Therefore, it is recommended that Rule 16.3.11.6 be amended to remove the controlled activity status, and simplified to require a restricted discretionary activity for construction, alteration or signage.

8.1.4 Recommendations

463. For the reasons given above, I recommend that the Hearings Panel:

Reject Cathy Miller [264.1], Heritage New Zealand Pouhere Taonga [559.215], Waikato District Heritage Forum [620.1], Christine Madsen [980.1], Pareoranga Te Kata [FS/035.103], Christine Madsen [FS/123.1] and [FS/123.2], Heritage New Zealand Pouhere Taonga [FS/323.50] and Mercury NZ Limited [FS/388.810] - a heritage precinct and an associated design guide for Rangiriri.

Accept in part Heritage New Zealand Pouhere Taonga [559.143], [559.243], [559.244] and [559.245]; and **Reject** Housing New Zealand Corporation [749.117] - Rule 16.3.11.6.

8.1.5 Recommended amendments

464. The following amendments are recommended:

Rule 16.3.11.6 Heritage precincts – Matangi and Huntly¹⁴⁶

C1	(a) Construction of a building in the Matangi or Huntly Heritage Precincts identified on the planning maps that is set back at least 8m from road boundaries. (b) Council's control is reserved over the following matters: (i) Effects on historic heritage, amenity values and character of the precinct; and (ii) Building height, side setbacks, scale, form, materials and architectural style to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide).
C2	(a) Alteration of a building in the Matangi or Huntly Heritage Precincts identified on the planning maps. (b) Council's control is reserved over the following matters: (i) Effects on historic heritage, amenity values and character of the precinct; and (ii) Building height, side setbacks, scale, form, materials and architectural style to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide).
C3	(a) Attachment of an advertising sign(s) to a building or located within the 8m setback from road boundaries in the Matangi or Huntly Heritage Precincts identified on the planning maps. (b) Council's control is reserved over the following matters: (i) Effects on historic heritage, amenity values and character of the precinct; and (ii) Advertising signs.
RD1	(a) <u>Construction, alteration</u> of to a building in the Matangi Heritage Precinct or the Huntly Heritage Precinct identified on the planning maps that does not comply with Rule 16.3.11.6 C1, C2 or C3. (b) Council's discretion shall be restricted to the following matters: (i) Effects on historic heritage, amenity values and character of the precinct; (ii) Building height, side setbacks, scale, form, materials and architectural style to be consistent with the relevant part of Appendix 3.6 (Matangi Heritage Precinct Design Guide) or Appendix 3.5 (Huntly Heritage Precinct Design Guide); (iii) Advertising signs; and (iv) (iii) Setback from road boundaries
<u>RD2</u>	<u>(a) Attachment of an advertising sign(s) to a building or located within the 8m setback from road boundaries in the Matangi or Huntly Heritage Precincts identified on the planning maps.</u> <u>(b) Council's discretion shall be reserved to the following matters:</u> <u>(i) Effects on historic heritage, amenity values and character of the precinct;</u> <u>(ii) Advertising signs; and</u> <u>(iii) Setback from road boundaries.</u>

8.1.6 Section 32AA evaluation

Other reasonably-practicable options

¹⁴⁶ [559.143], [559.243], [559.244] and [559.245]

465. The amendments to the zone rule for Heritage Precincts are considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

466. The amendments improve the effectiveness of the rule and plan administration by ensuring that the activity status and matters of discretion correlate to the heritage significance of the precincts.

Costs and benefits

467. There would be costs if a resource consent for a restricted discretionary activity were declined, while a controlled activity could not be declined. Nevertheless, the costs for a resource consent are likely to be the same. There are benefits to the environment with the amendments proposed in the Residential zone to ensure clarity around how the effects will be managed.

Risk of acting or not acting

468. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to this rule to ensure consistency of the intended protection of these identified heritage precincts.

Decision about most appropriate option

469. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

9 Schedules

9.1 Schedule 30.1 – Historic Heritage

9.1.1 Introduction

470. Schedule 30.1 is the list of historic heritage items that meet the evaluation criteria for protection. The notified version of Schedule 30.1 consists of five columns: "New ID, Ranking, Property location, H.P.T CAT, Significant Features to be Protected". The Schedule presently enables users to identify the protected item as a number on the planning maps and to ascertain its ranking to then cross-reference with the relevant objectives and policies set out in Chapter 7 - Historic Heritage, and the relevant Historic Heritage rules in each zone.

9.1.2 Submissions

471. Thirty-seven submission points and twenty-one further submissions have been made relating to:

- A. General submissions and
- B. The listing of specific items.

A. General submissions

472. The following seven submission points and four further submission points were made relating to the format of the table and the information contained within it, the addition of plaques, why there are no archaeological sites listed, and requests for explanations of the ranking status:

Submission point	Submitter	Summary of submission
562.1	Gladys Button	Add a cairn or plaque on Hakarimata Road to recognise the first Maaori School established in the North Waikato by Rev. B Ashwell and Heta Tarawhiti in May 1946.
946.1	Dee Bond	No specific decision sought, but the submission requests more information regarding the implications of having a Building B ranking for Historic Heritage Item ID 14 – Tuakau Hotel before a final decision is made.
<i>FS1387.1595</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
946.2	Dee Bond	No specific decision sought, but the submission requests that information as to why the Alexandra Redoubt, Tuakau, dating from 1863 has been removed from the list of Historic Heritage Items that was proposed.
559.216	Heritage New Zealand Pouhere Taonga	Retain Schedule 30.1 – Historic Heritage Items, except for the amendments sought below AND Amend Schedule 30.1 – Historic Heritage to include an advice note regarding the extensive heritage and archaeological information held by Council that can be obtained on request.
559.217	Heritage New Zealand Pouhere Taonga	Amend the third column heading in Schedule 30.1 – Historic Heritage Items from “H.P.T” to “HNZPT” AND Add the Heritage New Zealand listing numbers as identified in Attachment 3 to this submission into Schedule 30.1.
559.218	Heritage New Zealand Pouhere Taonga	Amend Schedule 30.1 Heritage Items by deleting the column containing the significant features to be protected and replacing with a notation or hyperlink to refer the reader to the relevant Heritage record forms for information relating to the history, setting, extent of scheduling and significant features of the building to all be given regards at the time of works on the Heritage Item. AND Add to Schedule 30.1 Heritage Items the heritage record form to be part of Schedule 30.1 Historic Heritage Items in the Plan.
697.307	Waikato District Council	Amend the historic heritage item descriptions in Schedule 30.1 Historic Items

FS/323.145	Heritage New Zealand Pouhere Taonga	Support
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9.1.3 Analysis

473. Waikato District Council [697.307] seek the revision of the information contained in Schedule 30.I to ensure that appropriate assessments can be undertaken, and to correct errors and omissions. Waikato District Council noted also that the notified Schedule 30.I does not align with the information provided by the Council heritage expert that was produced to inform the district plan. This approach is partly supported by the further submission from Heritage New Zealand Pouhere Taonga [FS/323.145].
474. Heritage New Zealand Pouhere Taonga [559.216], [559.217] and [559.218], while supporting the concept of Schedule 30.I as notified, seek an amendment to ensure that there is reference to the extensive information held by Council on each scheduled item, and where that can be obtained; to correct referencing of the HNZPT Listing numbers; and to delete the 'Significant Features' column and replace that with a reference or hyperlink to the relevant Heritage Record Forms, and that those forms be incorporated into the district plan.
475. Schedule 30.I, as notified, is not supported by any information to assist users on how to interpret and apply the information contained in the table, and there are inaccuracies in terminology used (e.g. 'H.P.T. CAT'). The information provided in the 'Significant Features' column is not consistent with the technical information from Dr McEwan, and in some instances there is no information listed for an item. The existing information in the 'Significant Features' column implies that only those elements highlighted are to be protected. There is no consistency in how the information provided is applied. There is also no explanation for the criteria used in the assessment of heritage significance or the difference between the 'A' and 'B' ranking; and no explanation for the difference in the ranking terminology of 'Group'/'General' or 'Building' used.
476. I consider that the existing format of Schedule 30.I should be modified to ensure the provision of accurate information, and that best practice methods are followed to aid plan users in identifying items' heritage significance. Key to this is to ensure that all relevant information is either stated, or relevant links provided, to direct users to further information to address why an item has been scheduled, or when considering the effects that proposed works will have on the heritage significance of scheduled items.
477. Accordingly, I recommend the following changes to the format of Schedule 30.I: Historic Heritage Items, and the reorganisation of the manner in which the heritage items are listed, to reflect the format that Dr McEwan originally proposed. Because of these recommended modifications to both the format and language used in the revised Schedule 30.I, there will need to be consequential changes to wording in Chapter 7 - Historic Heritage and zone chapters. I recommend that the following format be used to replace the notified version of Schedule 30.I:

ID#	Heritage Item	Address	Legal Description	Ranking	HNZPT List Classification	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
Tuakau							
Pokeno							

Te Kauwhata							
Huntly							
Ngaruawahia							
Raglan							
Eastern Sector							

478. In addition to the format changes, I propose adopting the information from Dr McEwan's 2017 report to:

- correct omissions and errors relating to site addresses;
- apply all of the names for which a heritage item is known;
- the removal of any mention of interiors;
- the repetition of sites (e.g. Kelm Road magazines, as notified ID # 85, 88 and 91);
- apply the reference 'A' or 'B'-ranked and remove the terminology 'Building A', 'Building B', 'General A' and 'General B' (noting a consequential change is also the removal of the term "group" and replace that with the word 'Ranked' throughout the plan); and
- add an explanation for the assessment criteria used and ranking status applied.

479. To address the removal of the "Significant Feature" column, I propose the use of a hyperlink to the actual heritage records. I consider that this will provide all relevant information on the heritage significance of the scheduled items, it is in a consistent format, and provides clear reasoning for why the items are scheduled. As a result of this recommended change to Schedule 30.1, there is the need for consequential changes to policy and rule wording when referencing 'significant features', however, as a result of other submissions, these changes are addressed elsewhere.¹⁴⁷

480. However, while recommended for inclusion in Dr McEwan's 2017 report, the following buildings are not scheduled in the notified version of the PDP:

- Mahinarangi & Turongo House in Ngaruawahia
- Former dairy factory in Tuakau
- General store in Te Kauwhata
- Waipa Hotel in Ngaruawahia
- Six staff cottages and magazines at Hopuhopu
- Former Marist Juniorate in Tuakau
- Former Kosoof bungalow/Rimu House in Huntly
- Former Robinson's Boarding House in Glen Massey
- Former Cavanagh House in Ngaruawahia, and
- Former Taupiri Post Office and Postmaster's residence.

¹⁴⁷ All heritage items - alterations or additions rules

481. Submissions have been received seeking the inclusion of the latter five buildings and are addressed in this s.42a report. However, no submissions were lodged on the other buildings (Mahinarangi & Turongo House in Ngaruawahia, former dairy factory in Tuakau, the General store in Te Kauwhata, the Waipa Hotel in Ngaruawahia, and the six staff cottages and magazines at Hopuhopu). As these buildings are expressly discussed in the s.32 report, their exclusion from Schedule 30.1 cannot be considered an omission or editorial error, and because there are no specific submissions seek their inclusion, there is no scope under the WDC submission to correct omissions and errors within Schedule 30.1.
482. Therefore, it is recommended that the format of Schedule 30.1 be amended to correct errors and omissions and to remove the 'Significant feature of Interest' column. I recommend that the submissions by Waikato District Council and Heritage New Zealand Pouhere Taonga be accepted.
483. Gladys Button [562.1] specifically requests the addition of either a cairn or a plaque on Hakarimata Road to recognise the first Maaori School established in the North Waikato by Rev. B Ashwell and Heta Tarawhiti in May 1946.
484. The role of the district plan is to ensure that Council achieves its statutory obligations under the RMA for the protection of the district's identified historic heritage. The goals and actions set out in the Waikato District Heritage Strategy and the Heritage Policy provide the avenue for the provision of signage and plaques.¹⁴⁸ The recognition of the district's heritage sites through the erection of signage or plaques is a valid matter for further consideration by the correct forum. Therefore, it is recommended that the matter be passed to the Waikato District Heritage Forum to consider in consultation with Mana Whenua. Accordingly, I recommend that the submission by Gladys Button be rejected.
485. Dee Bond [946.1] seeks clarification on what the implications are of a 'B' ranking for the Tuakau Hotel (ID# 14), noting that the submitter has not specifically opposed the scheduling of the building. This submission has been further submitted upon by Mercury NZ Limited [FS/387.1595], who opposes the relief sought (noting that this further submission does not specifically relate to the relief sought by the submitter).
486. The submitter questions the ranking because prior to their ownership the building was "in a run-down state" and during the past 10-year period they have "invested heavily to bring it up to the award-winning state" it is in now.
487. The building, at 3 George Street, Tuakau has not previously been scheduled in the district plan. Dr McEwan recommended the scheduling with a 'B' ranking based on its architectural significance as a Victorian commercial classical building, noting that it has "recently been sympathetically restored"; and that the hotel has high historic significance as a surviving late 19th century building within Tuakau's town centre. The assessment criteria Dr McEwan applied in determining heritage values was based on the evaluation criteria set out in Table 10-1 of the Waikato Regional Policy Statement ('WRPS').
488. The 'A' or 'B' ranking is based on the level of significance within each of the criteria listed in Table 10-1 of the WRPS and the importance of the built heritage item in a national or international context. In determining the level of significance ('A' or 'B' ranking) to be applied, Dr McEwan primarily considered the items' significance to Waikato District. Dr McEwan outlined in her 2017 report that the difference between an 'A' and 'B' ranking depended on the number of criteria for significance being met - that identified background

¹⁴⁸ "Continuing to place heritage plaques at appropriate locations throughout the district. Installing tourism signage and interpretation panels identifying important heritage items and their links to history". Action 11, Identification, Waikato District Heritage Strategy, Waikato District Council, 2014, Page 18.

evidence was credible, the item(s) contribute to an understanding of Waikato District's development and identity, and the structure has a good degree of integrity.

489. The Tuakau Hotel site is zoned Business Town Centre under the Proposed District Plan. Works to a heritage-listed building or the site upon which it is located may require a resource consent if those works impact on the form, style, materials and appearance of the building or affect the heritage values for which it has been listed. Accordingly, there will be the need for any future works proposed for the hotel to be assessed against the district plan provisions to determine if a resource consent would be required.
490. No further action is required - the above addresses the relief sought - accordingly, I recommend that the submission by Dee Bond be rejected.
491. Dee Bond [946.2] requests that information as to why the Alexandra Redoubt in Tuakau, dating from 1863, has been removed from the list of Historic Heritage Items. Dr McEwan has advised that it was her recommendation for the redoubt and cemetery to be removed from the schedule, as in her opinion the site requires a holistic management and protection approach by other means - such as a reserve management plan, the Burials Act and the Heritage New Zealand Pouhere Taonga Act - rather than relying on the district plan.
492. No further action is required - the above addresses the relief sought - accordingly I recommend that the submission by Dee Bond be rejected.

9.1.4 Recommendations

493. For the reasons given above, I recommend that the Hearings Panel:

Reject Gladys Button [562.1] - no change - Add a cairn or plaque on Hakarimata Road to recognise the first Maaori School.

Reject Dee Bond [946.1] and Mercury NZ Limited [FS/387.1595] - information regarding the implications of having a Building B ranking.

Reject Dee Bond [946.2] - requests information as to why the Alexandra Redoubt in Tuakau has been removed from the list of Historic Heritage Items.

Accept Heritage New Zealand Pouhere Taonga [559.216], [559.217] and [559.218], Waikato District Council [697.307] and Heritage New Zealand Pouhere Taonga [FS/323.145] - amend Schedule 30.1 – Historic Heritage Items.

9.1.5 Recommended amendments

494. The following amendments are recommended:

Delete the notified version of Schedule 30.1 and insert the following:

Schedule 30.1 Historic Heritage Items¹⁴⁹

Assessment of Historic Buildings and Structures

Heritage Assessment Criteria

The heritage significance and the value of the historic heritage has been assessed based on evaluation against the following heritage qualities:

Archaeological Significance:

¹⁴⁹ [559.216, 559.217, 559.218. 697.307]

- The potential of the building, structure and setting to define or expand the knowledge of earlier human occupation, activities or events
- The potential for the building, structure and setting to provide evidence to address archaeological research
- The building, structure and setting is registered by Heritage New Zealand Pouhere Taonga, or recorded by the New Zealand Archaeological Association Site Recording Scheme

Architectural Significance

- The style of the building or structure is representative of a significant development period in the Waikato District and associated with a significant activity (e.g. institutional, industrial, commercial or transportation)
- The building or structure has distinctive or special attributes of an aesthetic or functional nature (e.g. materials, detailing, functional layout, landmark status or symbolic value)
- The building or structure uses unique or uncommon building materials or demonstrates an innovative method of construction, or is an early example of the use of particular building technique.
- The building or structure's architect, designer, engineer or builder as a notable practitioner or made a significant contribution to Waikato District.

Cultural Significance

- The building, structure and setting is important as a focus of spiritual, political, national or other cultural sentiment
- The building, structure and setting is a context for community identity or sense of place and provides evidence of cultural or historical continuity.
- The building, structure and setting has symbolic or commemorative significance to people who use or have used it, or to the descendants of such people. The interpretative capacity of the place or area and its potential to increase the understanding of past lifestyles or events.

Historic Significance

- The building or structure has a direct association with, or relationship to a person, group, institution, event, or activity that is of historical significance to Waikato District.
- The building or structure is associated with broad patterns of local or national history, including development and settlement patterns, early or important transportation routes, social or economic trends and activities.

Scientific Significance

- The potential for the building, structure and setting to contribute information about an historic figure, event, phase or activity.
- The degree to which the building, structure and setting contributes information and the importance of the data involved, its rarity, quality or representativeness.

Technical Significance

- The building or structure shows a high degree of creative or technical achievement at a particular time or is associated with scientific or technical innovations or achievements.

Ranking of Historic Heritage Items

The heritage assessment undertaken acknowledged the importance of the built heritage items in an international, national, regional and local context. The determination of the significance and the level of significance(A or B ranking) to determine the ranking of a built heritage item was primarily determined by the item's significance to the Waikato District.

A Ranking: historic buildings and structures with a 'high level' of significant heritage value important to the understanding of Waikato District's development and identity.

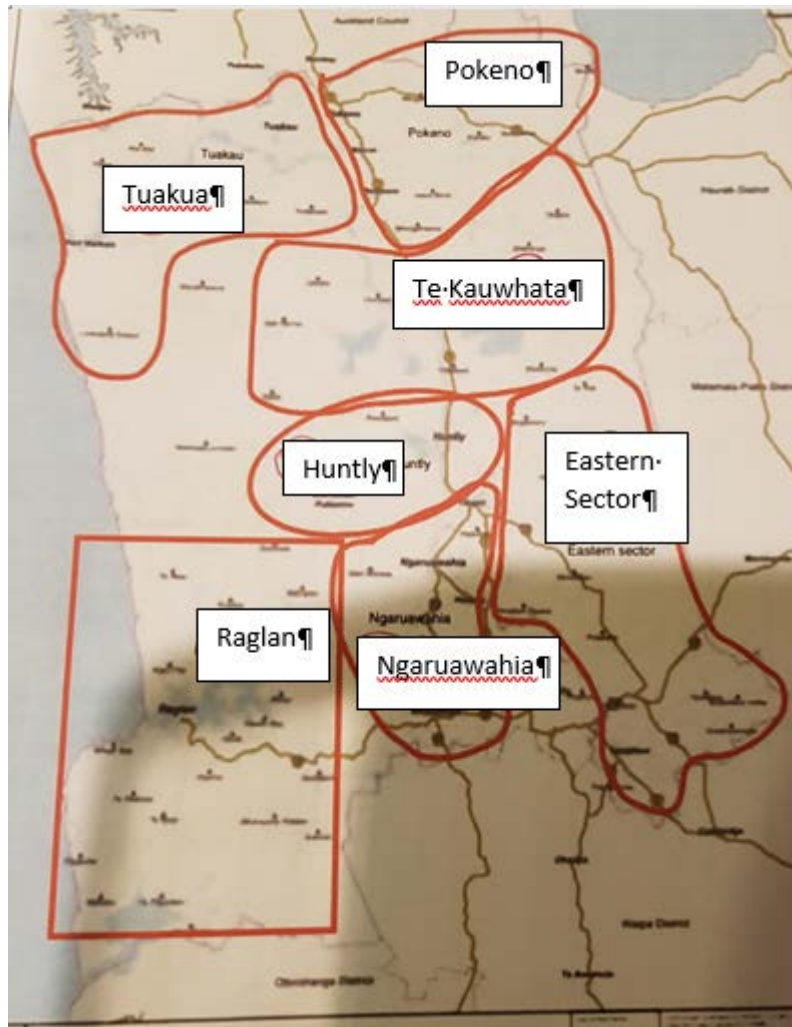
B Ranking: historic buildings and structures with significant heritage value that contributes to the understandings of Waikato District's development and identity

Schedule 30.1 Historic Heritage Items

Advice Notes:

- The all exteriors of the scheduled heritage item is protected.
- The extent of setting of the scheduled heritage item has been identified on the Heritage Record to protect the surroundings of the item and is important to ensure the context and heritage value of the scheduled item are not eroded.
- Reference needs to be made to the assessment reports prepared for each individual heritage item to determine their heritage values (Waikato District Council Historic Heritage Item Record Form.

Historic Heritage geographical Areas Map: [Note: the map below is a place marker for GIS to insert tidy map]



Schedule 30.1 **Historic Heritage Items**

NEW ID#	Heritage Item	Property location-Address	Ranking	Planning Map Number	H.P.T. CAT HNZPT List Classification	Significant Features to be Protected WDC Historic Heritage Item Record Form Hyperlink
Tuakau						
Pokeno						
Te Kauwhata						
Huntly						
Ngaruawahia						
Raglan						

Eastern Sector						

9.1.6 Section 32AA evaluation

Other reasonably-practicable options

495. The amendments to the format of Schedule 30.1 Heritage Items are considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

496. The amendments improve the effectiveness of the rule and plan administration by ensuring that the activity status and matters of discretion are consistently applied for all identified schedule heritage items.

Costs and benefits

497. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the amendments to ensure clarity about how the effects will be managed.

Risk of acting or not acting

498. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to Schedule 30.1 to ensure good plan administration and consistency across all relevant zones.

Decision about most appropriate option

499. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

B. The listing of specific items

500. The following twenty-nine submission points and seventeen further submission pointss were made relating to the listing, or not, of specific items:

Submission point	Submitter	Summary of submission
115.1	Robina Ross	Add 14 Galileo Street, Ngaruawahia as a heritage item to Schedule 30.1 (Historic Heritage Items)
FS1323.134	Heritage New Zealand Pouhere Taonga	support
217.1	Raglan Properties Limited	Delete the heritage item from the property at 14 Bow Street, Raglan
FS1323.135	Heritage New Zealand Pouhere Taonga	Oppose
FS1276.269	Whaingaroa Environmental Defence Inc. Society	Oppose

231.1	Lana & Michael Wells	Delete Historic Heritage Item from 1 Old Taupiri Road, Ngaruawahia (Lot 1 DP 31559)
FS1323.139	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
242.1	Lodge Te Marama No 186	Delete Item 107 (Masonic Lodge Te Marama, No 186 1912/16 at 18 Herschel Street, Ngaruawahia) from Schedule 30.1 Historic Heritage Items.
FS1323.140	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
288.1	The Trustees of the Valmont & Oakefield Trusts	Amend the significant features identified for Scheduled Historic Heritage Building Number 35 ('Clunes'/'Cameron's Castle' 1915-16) to recognise only the architectural significance of the Californian bungalow style and protect the town and front concrete façade of the dwelling.
FS1323.142	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support</i>
303.1	The Village Church	Amend Historic Heritage Item 107, Masonic Lodge Te Marama at 18 Hershel Street, Ngaruawahia which protects the interior, exterior and location of the building to allow for wide-ranging development and modernisation of the building.
FS1323.141	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
600.1	Susanne Giessen-Prinz	Amend item 140 in Schedule 30.1 Historic Heritage Items, to reflect the significant features of interest for 58 Wallis Street, Raglan
FS1323.144	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Support</i>
FS1276.72	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
946.3	Dee Bond	No specific decision sought, but the submission requests that information as to why LaValla, 131 Dominion Road, Tuakau, dating from 1921, was also removed from the proposed list of Historic Heritage Items.
535.85	Hamilton City Council	Add to Schedule 30.1 Historic Heritage Item St Paul's Methodist Church (previously at London Street, Hamilton) AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.
FS1323.143	<i>Heritage New Zealand</i>	<i>Support</i>

	<i>Pouhere Taonga</i>	
559.219	Heritage New Zealand Pouhere Taonga	Add to Schedule 30.1, Heritage New Zealand List item number 4256 – Riverdale, known in the Operative Plan as former F H Edgecumbe residence, Heritage item 115 as a 'B' ranking.
559.220	Heritage New Zealand Pouhere Taonga	Add to Schedule 30.1, Heritage New Zealand List item number 7129 – Komakorau Hall located at 50 Woodlands Road, Gordonton..
559.221	Heritage New Zealand Pouhere Taonga	Add to Schedule 30.1, Heritage New Zealand List item number 4250 – Former Burnett Residence located at 11 Luff Place, Ngaruawahia, Heritage Item 116 in the Operative District Plan.
559.222	Heritage New Zealand Pouhere Taonga	Add to Schedule 30.1, Heritage New Zealand List item number 4241 – Former Post Office (relocated) located at 10 Amber Lane, Puketaha.
559.223	Heritage New Zealand Pouhere Taonga	Add to Schedule 30.1, Heritage New Zealand List item number 98 – Potatau Monument as shown on Attachment 4 of the HNZPT submission.
559.224	Heritage New Zealand Pouhere Taonga	Consider how heritage Item number 17A of the Operative District Plan – Firth Industries cottage and site located at 92B Te Onetea Road, Rangiriri, which has a current "b" ranking can be retained in Council's records. AND Consider how any additional information can be captured at the time of demolition.
559.225	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 Heritage Item number 76 – Former Government Department Building from the Operative District Plan, located at 78 Matangi Street, Matangi and rank the building as a 'B' category building
559.226	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 Heritage Item number 125 – Former Mines/King House from the Operative District Plan, located at 14 Galileo Street, Ngaruawahia and rank the building as a 'B' category building
559.227	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 Heritage Item number 155 – Former Gilmore Bros Shop from the Operative District Plan, located at 11 Bow Street, Raglan and rank the building as a 'B' category building
<i>FS1276.70</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
559.228	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 Heritage Item number 161 – Former AR Langley building from the

		Operative District Plan, located at 19 Bow Street, raglan and rank the building as a 'B' category building
<i>FSI276.7I</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
559.229	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the Former Marist Juniorate Training College building, located at 139 Dominion Road, Tuakau and rank the building as a 'A' category building
<i>FSI022.I</i>	<i>Jackson Property Group</i>	<i>Oppose</i>
559.230	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the Former Kosoof building bungalow/Rimu House, located at 10 Main Street, Huntly and rank the building as a 'B' category building
<i>FSI097.I</i>	<i>Rimu Buildings Limited</i>	<i>Oppose</i>
559.231	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the Former Taupiri Post Office and Postmasters Residence, located at 3 The Crescent, Taupiri and rank the building as a 'B' category building
559.232	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the Former Robinsons Boarding House located at 79 Wilton Collieries Road, Glen Massey and rank the building as a 'B' category building
<i>FSI001.I</i>	<i>Ben Laing</i>	<i>Support</i>
559.233	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the Former Cavanagh Residence, located at 67 Ellery Street, Ngauwawahia and rank the building as a 'A' category building
559.235	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the Former Huntly Railway Worker's Cottages as follows: Hearing item number 64 from the Operative District Plan located at 47 Harris Street, Huntly Heritage Item Number 65 from the Operative District Plan located at 41 Harris Street, Huntly Heritage Item number 66 from the Operative District Plan located at 39 Harris Street, Huntly Heritage Item 67 from the Operative District Plan located at 37 Harris Street, Huntly Heritage Item number 68 from the Operative District Plan located at 35 Harris Street, Huntly Heritage Item 69 from the Operative District Plan located at 33 Harris Street, Huntly AND Amend the Proposed district Plan to recognise collectively the Huntly Railway Workers Cottages

		located on Harris Street, Huntly as a Precinct. AND Add rules as found in the Hamilton City Council Plan, Special Heritage Zone – Frankton Railway Village AND Provide further information in regard to the status of the Historic Heritage Items changing status from 'A' to 'B'.
559.236	Heritage New Zealand Pouhere Taonga	Add to the Heritage Schedule 30.1 the following New Zealand War Memorial Heritage inventory items: Kariotahi School Roll of Honour Ngaruawahia NZ War Memorial Otaua War Memorial Bowling Green Otaua Hall Tauwhare War Memorial Hall Te Hoe Hall Tuakau Service Memorial Waikaretu War Memorial Hall Whatawhata Cemetery NZ Wars memorial Whitikaku Memorial Hall
<i>FS1043.1</i>	<i>Te Uku & District Memorial Hall Inc</i>	<i>Oppose</i>
781.21	Ministry of Education	Delete the Te Mata School building (ID 184) from Appendix 30.1 Historic Heritage Items.
<i>FS1323.136</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
781.22	Ministry of Education	Delete Harrisville School Teacher's house (ID 7) from Appendix 30.1 Historic Heritage Items.
<i>FS1323.137</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>
781.23	Ministry of Education	Delete Tamahere School Building (ID 177) from Appendix 30.1 Historic Heritage Items.
<i>FS1323.138</i>	<i>Heritage New Zealand Pouhere Taonga</i>	<i>Oppose</i>

9.1.7 Analysis

501. Twenty-nine submissions have sought amendments to information, or the retention, addition, reinstatement or deletion of specific heritage items to be added to or removed from Schedule 30.1. Council's heritage expert, Dr Ann McEwan, has reviewed these specific requests, and I defer to her expertise for the following recommendations.
502. As a result of discussion between HNZPT and Dr McEwan, HNZPT have advised that they will not actively pursue the following five submission points: from [559.220] [559.221],

[559.222], [559.224] & [559.225], noting however, that these submission points have not been withdrawn.¹⁵⁰

503. Heritage New Zealand Pouhere Taonga [559.220] seeks the addition of the Komakorau Hall at 50 Woodlands Road, Gordonton to Schedule 30.1. This building is on the Heritage New Zealand Pouhere Taonga List (Category 2, #7129), but not scheduled under the Operative District Plan (Schedule CI Historic Heritage Items).
504. Dr McEwan has advised that although the building has historic interest, it does not possess sufficient historic heritage significance to warrant protection via the district plan.
505. Therefore, it is recommended that the submission be rejected.
506. Heritage New Zealand Pouhere Taonga [559.221] seeks the addition of the building identified as the 'Former Burnett Residence' at 11 Luff Place, Ngaruawahia to Schedule 30.1. This building is scheduled under the Operative District Plan (Schedule CI Historic Heritage Items, #116), and on the Heritage New Zealand Pouhere Taonga List (Category 2, #4250).
507. Dr McEwan, in her 2017 assessment, identified that the building had previously been located at 53 Newcastle Street, Ngaruawahia. Dr McEwan advised that, while the dwelling had historic interest, there was insufficient historic heritage significance to merit being scheduled.
508. Therefore, it is recommended that the submission be rejected.
509. Heritage New Zealand Pouhere Taonga [559.222] seeks the addition to Schedule 30.1 of the building identified as the 'Former Post Office' which was originally located at Arapuni in the South Waikato until the 1990s, then relocated to Puketaha, and later relocated to its existing site in 2000. This building is on the Heritage New Zealand Pouhere Taonga List (Category 2, #4241), but not scheduled in the Operative District Plan (Schedule CI Historic Heritage Items).
510. Dr McEwan has advised that although the building has historic interest, it does not possess sufficient historic heritage significance to warrant protection via the district plan.
511. Therefore, it is recommended that the submission be rejected.
512. Heritage New Zealand Pouhere Taonga [559.224] seeks the addition of the building and associated site identified as the 'Firth Industries cottage and site' at 92 Te Onetea Road, Rangiriri to Schedule 30.1. This building and site are scheduled under the Operative District Plan (Schedule CI Historic Heritage Items, #17A, 'B' ranking), but are not on the Heritage New Zealand Pouhere Taonga List.
513. Dr McEwan has advised that it was her recommendation in 2017 to remove this site from the district plan because of insufficient historic heritage significance to warrant protection via the district plan.
514. Therefore, it is recommended that the submission be rejected.
515. Heritage New Zealand Pouhere Taonga [559.225] seeks the addition of the building identified as the 'Former Government Department Building' at 78 Matangi Street, Matangi to Schedule 30.1. This building is scheduled under the Operative District Plan (Schedule CI Historic Heritage Items, #76, 'B' ranking), but is not on the Heritage New Zealand Pouhere Taonga List. The submitter acknowledges that this building is not on its original site, having been relocated from Stratford, Taranaki in c.1993.

¹⁵⁰ Zoom meeting, 31 March 2020

516. Dr McEwan recommended in 2017 that the building be removed from the district plan because it has no overall heritage significance to Waikato District. While the building's architecture style has historic interest and was saved from demolition, it is now located a great distance from its original site and does not contribute to an understanding of Waikato District's development and identity.
517. Therefore, it is recommended that the submission be rejected.
518. Robina Ross [115.1] and Heritage New Zealand Pouhere Taonga [559.226] seek the scheduling of 14 Galileo Street, Ngaruawahia. Heritage New Zealand Pouhere Taonga [FS/323.134] further submitted on R Ross' submission, supporting the addition of 14 Galileo Street to Schedule 30.1 as a heritage item for protection.
519. This building is scheduled in the Operative District Plan as a B-ranked building (Item #125), but is not on the Heritage New Zealand Pouhere Taonga List. R Ross, who owns the property, provided the following reasons for seeking the rescheduling of this building:
- The house is a villa over 100 years old;
 - It retains its original general form, materials and street façade, original double-hung sash windows including lead lights and bull-nosed roofed verandah;
 - The house has architectural significance and intrinsic or amenity values that conform with the listed items under Policy 7.1.3;
 - The original owner of this house was William King, who was the first baker in Ngaruawahia. His bakery building is still standing at 108 Great South Road [ID#106, Proposed District Plan; Item #114, Operative District Plan].
520. Heritage New Zealand Pouhere Taonga's reason for their submission point is that the building appears to be in a very original condition and has been maintained, it is very visible, has architectural value, retains sufficient interest and heritage values to continue to be scheduled.
521. Dr McEwan's 2017 advice to WDC was to remove this building from the schedule because the dwelling has insufficient historic heritage significance to warrant scheduling.
522. As part of the consideration of the submissions, further discussion was held between Dr McEwan and HNZPT staff.¹⁵¹ There remained disagreement between the parties on the heritage significance of the building - Heritage New Zealand considers that the building is a very good example of that style of villa and it has high architectural integrity.
523. Following that discussion, Dr McEwan undertook further research but has advised that the outcome of that further research has not altered her original recommendation. Dr McEwan advises that while the "house is a representative example of the bay villa vernacular style, and therefore has some architectural value, and it contributes to the character and amenity values of the streetscape" it does not meet the "criteria for scheduling as a significant historic heritage resource".¹⁵²
524. This is a difficult situation when Council's heritage expert and the organisation mandated to advocate for the protection of heritage do not agree.
525. As the district plan is a forward-looking document, I have weighed the advice from both parties, acknowledging that the owner also seeks the scheduling of this building, and have concluded that a conservative approach should be taken, because Historic heritage is of

¹⁵¹ Zoom meeting, 31 March 2020

¹⁵² McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submission [115.1], page 3

national importance as per s.6 of the RMA; the building is already protected under the operative district plan; all parties agree that the building is in a good condition, and has architectural value, notwithstanding that opinions differ as to the extent of that value.

526. Therefore, I recommend that 14 Galileo Street, Ngaruawahia be scheduled, with all necessary consequential amendments, in the district plan - noting that a formal Heritage Report would need to be compiled and ranking determined; and the submissions by Robina Ross [115.1] and Heritage New Zealand Pouhere Taonga [559.226] be accepted.
527. Heritage New Zealand Pouhere Taonga [559.227] seeks the addition of the building known as the 'former Gilmore Bros Shop' at 11 Bow Street, Raglan to Schedule 30.1. This submission has been further submitted on by Whaingaroa Environmental Defence Inc Society [FS/276.70], who supports the relief sought.
528. HNZPT's reasoning is that even though there have been modifications to the building, the character and design of the building has not been fundamentally damaged. HNZPT considers that there are still distinctive architectural features, and that the building has both historic and social significance that contribute to the area's identity.
529. Raglan Properties Limited [217.1] supports the stance taken in the proposed district plan as notified - that the building at 19 Bow Street, Raglan is not scheduled as a heritage item. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.134] and the Whaingaroa Environmental Defence Inc Society [FS/276.269] ('WEDIS'), both opposing the relief sought by Raglan Properties Limited. Heritage New Zealand Pouhere Taonga [559.228] seeks the scheduling of the building at 19 Bow Street.
530. It is to be noted that although the summary of the submissions stated "Delete the heritage item from the property at 14 Bow Street, Raglan" the original submission lodged by Raglan Properties Limited pertains to 19 Bow Street; accordingly, that is the focus of the following assessment. It is assumed that this is an editorial error and is why the further submission by HNZPT states 14 instead of 19 Bow Street. During further discussion with Heritage New Zealand Pouhere Taonga, this assumption was confirmed.¹⁵³
531. Raglan Properties Limited is concerned that scheduling buildings adds complexities and costs to the maintenance of those properties that is impacting on the buildings' overall upkeep. The key rationale for the further submissions by HNZPT and WEDIS relates to the age of 19 Bow Street, its location on a prominent corner in the centre of Raglan's town centre, and that it is a typical example of the attractive character of Raglan.
532. Dr McEwan's recommendation to WDC in 2017 was to remove both 11 and 19 Bow Street from the district plan because, although they have some historic and architectural interest, both have been considerably modified, and there is insufficient historic heritage significance, including modest architectural values to merit scheduling.
533. In the Operative District Plan (Appendix C1 Historic Heritage Items, 2013 Operative District Plan) 11 and 19 Bow Street are scheduled heritage items for their general form and street façades.¹⁵⁴ Neither is listed by Heritage New Zealand Pouhere Taonga.
534. In considering the relief sought by the submitters, Dr McEwan has reiterated her 2017 recommendation not to schedule. In Dr McEwan's opinion, because the area that 11 and 19 Bow Street are located within is managed through the Raglan Design Guide Area, those provisions are the most appropriate level of recognition and management for these buildings.

¹⁵³ Zoom meeting, 31 March 2020.

¹⁵⁴ 11 Bow Street Heritage Item #155; 19 Bow Street Heritage Item #161

As notified, the proposed district plan presently addresses Raglan's town centre character through Appendix 10.1 Raglan Town Centre Character Statement.

535. As part of the consideration of the submissions, further discussion took place between Dr McEwan and HNZPT staff.¹⁵⁵ There is agreement between these parties that the modifications to these buildings have affected their architectural significance. However, there was consensus that the buildings contribute to the streetscape of the town centre and relate to other heritage buildings in the vicinity (e.g. Harbour View Hotel ID #142). HNZPT's reasons for seeking the scheduling of the buildings were because of their contribution to the community's history. Accordingly, there was general agreement with Dr McEwan's approach to place reliance on the Raglan Design Guide provisions to ensure that the context and associations that the buildings have with their location is holistically protected.
536. The character of Raglan, in particular the structure and application of the design guide, was considered in Hearing 16 – Raglan. To address submissions on character for that hearing, Council engaged Isthmus to undertake an assessment of the character of Raglan. This work is appended to the section 42a Report for Hearing 16: Raglan. Accordingly, I defer to the recommendations set out for section 4 The Character of Raglan, that has identified that further work should be undertaken to the design guide via a separate planning process because of the recommendations from Isthmus and the issue of scope through this process.
537. As the district plan is a forward-looking document, and there is the potential for a focused consultative process, I have weighed the advice from Dr McEwan and the existing position of the submitters, and have concluded that a conservative approach should be taken to continue to protect the heritage values of these buildings, while the framework of a design guide is refined and the different character and heritage components that contribute to Raglan's character have been addressed.
538. Therefore, I recommend that 11 and 19 Bow Street, Raglan be scheduled, with all necessary consequential amendments, in the district plan, noting that a formal Heritage Report would need to be compiled and ranking determined.
539. Lana & Michael Wells [231.1] seek the removal of 1 Old Taupiri Road, Ngaruawahia from Schedule 30.1. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.139] opposing the relief sought by L & M Wells.
540. The building at 1 Old Taupiri Road has not previously been scheduled in the district plan.¹⁵⁶ Dr McEwan recommended scheduling with a 'B' ranking, based on the building's significant historic, architectural and contextual values. In determining its significance for protection in 2016-17, Dr McEwan stated that the building has architectural significance as a well-preserved Edwardian villa and cultural value, as it provides evidence of historic continuity; and has historic significance for its association with Matthew Walsh and his family and the early 20th century residential development of Ngaruawahia.¹⁵⁷
541. The Wells outline in their submission their long-term connection and knowledge about the building. They object to the building being scheduled, questioning its authenticity due to the renovations, additions, alterations and material changes that have occurred over the years. They also question the benefit that scheduling will actually give them, and are concerned that

¹⁵⁵ Zoom meeting, 31 March 2020

¹⁵⁶ As notified, this heritage item is incorrectly identified as 2 Old Taupiri Road. This is proposed to be corrected in response to WDC submission point 697.307

¹⁵⁷ McEwan, A, Heritage Consultancy Services, 2017, WDC District Plan Review – Built Heritage Assessment: Identification of Waikato District Council's Built Heritage Resources; page 304.

the scheduling will in fact impose restrictions upon them when they have already been maintaining and caring for the building.

542. Dr McEwan's review of the submitters' reasoning for the building not being protected due to the works that have been undertaken on the building over the years is, in her opinion, not a reason to make the building ineligible for heritage identification and protection. Dr McEwan advises that most early 20th century residential buildings have been modified and that this, in itself, does not make the building ineligible for heritage identification and protection.¹⁵⁸
543. While the scheduling of a building does impose additional controls over what happens to the building beyond the normal zone provisions, the protection of historic heritage is a matter of national importance, ensuring that there is generational evidence for the future. This is the reason for HNZPT's opposition to the submission - that it is important to ensure that the buildings' heritage values are protected into the future. Waikato District Council acknowledges these additional restrictions and provides incentive funding to assist owners with ongoing maintenance and repairs. Applying heritage protection via the district plan is not an attempt to stop the use of the building. On the contrary, the expectation is that scheduled buildings are used and fit for purpose, while ensuring the heritage values are not lost.
544. Therefore it is recommended that the building at 1 Old Taupiri Road, Ngaruawahia be retained in Schedule 30.1, and that the submission by Lana & Michael Wells [231.1] be rejected and Heritage New Zealand Pouhere Taonga [FS/323.139] accepted.
545. Lodge Te Marama No 186 [242.1] seeks the removal of the proposed heritage scheduling of 18 Herschel Street, Ngaruawahia. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.140], opposing the relief sought by Lodge Te Marama No 186. The Village Church [303.1] seeks amendment regarding the degree of protection placed on the building. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.141] opposing the relief sought.
546. Lodge Te Marama question how the building can have heritage significance and that the building's significance is only to the Masonic Lodge members, with a strong focus on its interior rather than its exterior, stating that the "physical structure and its exterior is just a building that housed a Lodge". Lodge Te Marama are concerned that scheduling will impact on their plans, as they no longer can maintain the building and wish to sell it. The Village Church have not specifically opposed the scheduling of the building, but seek assurances that the heritage protection placed over the building will not restrict the future use of the building. Both Lodge Te Marama and The Village Church also raise concern that the proposed heritage scheduling will severely limit the marketability and use of the building.
547. The building at 18 Herschel Street, Ngaruawahia has not previously been scheduled in the district plan, and is not on the Heritage New Zealand Pouhere Taonga List. Dr McEwan recommended the scheduling with a 'B' ranking, based on its significant historic, architectural, cultural, and technological values. In determining its significance for protection, Dr McEwan identified that the building has architectural significance as a "three-stage vernacular building with Neoclassical overtones largely designed by two of Hamilton's leading architectural practices, Warren and Blechynden and Edgumbe & White; the Lodge Te Marama has cultural significance as a place of fellowship and community identity; historic

¹⁵⁸ McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submission 231.1, page 4

significance for its association with local freemasons, including Dr Percy Swanseger; and technological significance for its locally-made brick construction and detailing.”¹⁵⁹

548. The concern raised by Lodge Te Marama and The Village Church that having a heritage scheduling will severely limit its marketability is not supported; Dr McEwan advises that scheduling does not prohibit the use and the ability to successfully undertake adaptive reuse.
549. The purpose of the RMA is to ensure the sustainable use of all resources; historic heritage is a resource for both its heritage values and its physical forms (e.g. a building and site). As a result, the adaptive reuse of heritage buildings is encouraged, to ensure the suitable use of the building resource while maintaining the individual building’s heritage context and associated heritage values. The provisions set out in the district plan are there to ensure that any modifications do not erode those identified heritage values.
550. Following a review of these submissions, Dr McEwan has not altered her original opinion about the building’s heritage values being adequately significant to warrant protection.¹⁶⁰
551. Therefore, it is recommended that the building at 18 Herschel Street, Ngaruawhia be retained in Schedule 30.1 and that the submissions by Lodge Te Marama No 186 [242.1] and The Village Church [303.1] be rejected and Heritage New Zealand Pouhere Taonga [FS/323.140] and [FS/323.141] be accepted.
552. The Trustees of the Valmont & Oakefield Trusts [288.1] seek amendments to the description of the heritage item identified as ‘Clunes’/‘Cameron’s Castle’ (ID# 35) in the significant features column in Schedule 30.1 Historic Heritage Items. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.142], who supports the relief sought.
553. The building at 165 Wairamarama Onewhero Road, Onewhero has not previously been scheduled in the district plan and is not on the Heritage New Zealand Pouhere Taonga List. Dr McEwan recommended the scheduling with an ‘A’ ranking based on its significant architectural values and a California Bungalow styling by Pukekohe architect, FW Mountjoy. She noted that it is also featured in Peter Shaw’s History of New Zealand Architecture.
554. The Trustees acknowledge that the building has architectural significance, but question whether protection is warranted for the whole building because of modifications that have occurred over time. Instead, they suggest that only the tower and concrete frontage of the building should be protected. The Trustees also provided further detail on the history of the building and its earlier residents, and seek that this information be used to update the heritage record for the building.
555. Dr McEwan’s review of the submission and the further information provided has advised that only scheduling specific features of a historic building is contrary to best-practice heritage assessment and management, but she did recognise that the tower and principal elevation of the dwelling are defining features that would likely be priorities, should a resource consent application be lodged for alterations, additions and/or demolition.¹⁶¹
556. I highlight that due to other submissions on the structure of the notified version of Schedule 30.1, I am recommending changes that will remove the existing ‘Significant Features’ column

¹⁵⁹ McEwan, A, Heritage Consultancy Services, 2017, WDC District Plan Review – Built Heritage Assessment: Identification of Waikato District Council’s Built Heritage Resources; page 305.

¹⁶⁰ McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submissions [242.1] and [303.1], pages 4 & 5

¹⁶¹ McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submission [288.1], page 4

and place full reliance on the Heritage Record for each heritage item, to provide full descriptions and information about the heritage values.

557. Dr McEwan met with the Trustees in late May 2020 onsite to discuss their submission and to inform her review of the submission. Dr McEwan has advised that her opinion has not changed and that the entire building and identified setting should be scheduled. Nevertheless, she has updated the heritage report for this building.¹⁶²
558. Therefore, it is recommended that the building at 165 Wairamarama Onewhero Road, Onewhero be retained in Schedule 30.1, and that the submissions by The Trustees of the Valmont & Oakefield Trusts [288.1] be accepted in part and Heritage New Zealand Pouhere Taonga [FS/323.142] be accepted.
559. Susanne Giessen-Prinz [600.1] seeks amendments to the significant features column of Schedule 30.1 for the proposed heritage-scheduled building (ID# 140) at 58 Wallis Street, Raglan. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.142], and Whaingaroa Environmental Defence Inc Society [FS/276.72] supports the relief sought.
560. The submission seeks further detail as to what is meant by having the heritage protection over 58 Wallis Street, Raglan, rather than opposing the scheduling of the building. The building - the Former Raglan Co-Op Dairy Company Butter Factory - is scheduled because of the heritage values it provides to Waikato District through its architectural significance, its technological significance for its concrete construction, its association with the dairy industry, and its cultural significance in providing a sense of place and historic continuity.
561. In addressing the Waikato District Council submission point [697.307], I have recommended that the structure of the notified version of Schedule 30.1 be changed. Those changes will remove the existing 'Significant Features' column and place full reliance on the Heritage Record for each heritage item, to provide a full description and information about the heritage values. I consider that doing so will address the concerns raised by S Giessen-Prinz, HNZPT and Whaingaroa Environmental Defence Inc Society.
562. Therefore, it is recommended that Susanne Giessen-Prinz [600.1], Heritage New Zealand Pouhere Taonga [FS/323.142] and Whaingaroa Environmental Defence Inc Society [FS/276.72] be accepted, in light of the recommended revision of Schedule 30.1.
563. Heritage New Zealand Pouhere Taonga [559.229] seeks the addition of the building, known as "LaValla" Marist Juniorate Training College at 131-139 Dominion Road, Tuakau to Schedule 30.1 with an 'A' ranking. This submission has been further submitted on by Jackson Property Group [FS/1022.1], opposing the relief. Dee Bond [946.3], while not seeking a specific decision, highlights the value of the building to the local setting.
564. The building is not presently on the Heritage New Zealand Pouhere Taonga List or scheduled in the Operative District Plan.
565. Based on its significant architectural, cultural, and historic values, Dr McEwan had, in 2017 recommended that the former Marist Junior Training College building be scheduled as an 'A' ranked heritage item. Following Dr McEwan's assessment of the building, she determined that it had overall heritage significance to Waikato District; high architectural significance as a surviving example of the work of S & A Luttrell who were architects to the Catholic Diocese of Christchurch; high cultural significance as a place of Catholic education, community identity and historic continuity; and high historic significance for its association

¹⁶² Refer to Appendix 4 for the meeting notes

with the Marist Brothers and their contribution to the Catholic education for boys in New Zealand.¹⁶³

566. The process that Council followed to finalise the content of the proposed district plan relating to historic heritage (built heritage and notable trees) is outlined in the Section 32 Report for Historic Heritage. Section 1.8 Decision-making of the Section 32 Report specifically identified certain buildings that, although recommended for inclusion by Dr McEwan, were not included under council direction. The former Marist Juniorate Training College building was one of those. The specific reason for not scheduling this building was because the landowner had advised council that they did not wish their building to be scheduled, and councillors decided that “due to the owners of these properties’ continuing protection of these buildings, they should not be included in the schedule”.¹⁶⁴
567. HNZPT’s reasons for seeking the scheduling of the former Marist Juniorate Training College is because of its high architectural and social heritage values. Dee Bond through her submission set out a potted history of the College and what it has most recently been used for. Although she does not specifically state that her relief sought is for the building to be scheduled, it is implied through her statement “to truly respect the past you must create a future”.
568. Jackson Property Group oppose the inclusion of the building in Schedule 30.I because there has not been adequate consultation around the implication of scheduling. Specifically, they reference the desire to engage with Heritage New Zealand on this matter and acknowledge that they would be “happy to work with Heritage New Zealand in the future provided that this could work as a partnership”. This building is not listed by HNZPT.
569. I note that in 2018 Council engaged Architecture and Conservation Limited (‘Archifact’) to undertake a peer review of the assessment and recommendations to schedule thirteen buildings. One of the buildings that they peer reviewed was the former Marist Juniorate Training College Building. Archifact state that during their review of this building, the owners advised that they may be prepared to support listing.¹⁶⁵ I have also been advised by Council staff that during the preparation of the district plan review there were meetings with the Jacksons, and they attended ‘drop-in-sessions’.
570. Scheduling for heritage protection in the district plan does not prohibit the use and the ability to successfully undertake repurposing of buildings of this nature. The purpose of the RMA (s.5) is to ensure the sustainable use of all resources; in the instance of a heritage item, it is both its heritage values and its physical form (e.g. a building and site). As a result, the repurposing of heritage buildings is encouraged in a manner that ensures the suitable use of the building resource while maintaining the individual buildings’ heritage context and associated heritage values. The provisions set out in the district plan are there to ensure that any modifications do not erode those identified heritage values.
571. The difference between the HNZPT List and the scheduling in a district plan is the statutory protection that scheduling affords a building. Listing under the Heritage New Zealand Pouhere Taonga Act does not provide that protection, and is therefore reliant on the statutory mechanisms under the RMA to provide formal protection.

¹⁶³ McEwan, A, Heritage Consultancy Services, 2017, WDC District Plan Review – Built Heritage Assessment: Identification of Waikato District Council’s Built Heritage Resources

¹⁶⁴ Waikato District Council, Section 32 Report - Part 2 Historic Heritage, July 2018page 10 & 11

¹⁶⁵ Archifact – Architecture & Conservation Limited, Waikato District Council Built Heritage Items for Proposed Registration Peer Review, June 2018,Page 11

572. Local authorities are required to achieve their obligations under the RMA to ensure the sustainable use of resources and the protection of matters of national importance, such as historic heritage. The approach and reasoning taken in 2018 not to schedule a building is, in my opinion problematic; the action does not achieve either section 5 or 6 of the RMA, and is not forward-thinking about what future owners may wish to do with a building, which makes both the building and the local heritage values vulnerable and at risk of modification or destruction. The approach of not listing because of ownership is not considered best practice in the protection of historic heritage.
573. Following consideration of the submissions and further submissions, Dr McEwan has confirmed her original recommendation that the building be scheduled due to its heritage significance.
574. Therefore, it is recommended that the submission by Heritage New Zealand Pouhere Taonga be accepted, the further submission by Jackson Property Group be rejected, and the building be scheduled.
575. Hamilton City Council [535.85] seeks the scheduling of the former St Paul's Methodist Church that was relocated from London Street, Hamilton to Te Kowhai in 2019. This submission has been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.143], who supports the relief sought. Waikato District Council assessment of this submission point is appended in the Addendum to this report.
576. Heritage New Zealand Pouhere Taonga [559.219] ('HNZPT') seeks the addition to Schedule 30.1 of the dwelling identified as the "Former FH Edgecumbe residence" at 11 Lower Waikato Esplanade, Ngaruawahia. This building is presently scheduled under the Operative District Plan with an 'A' ranking (Schedule CI Historic Heritage Items, #115); and it is on the Heritage New Zealand Pouhere Taonga List (Category 2, #4256). HNZPT raises concern that this listed item is not scheduled in the proposed district plan, while agreeing with Dr McEwan's 2017 study that the ranking could be reduced from the 'A' to a 'B' ranking to acknowledge the modifications that have occurred to the building over time.
577. As part of the consideration of the submissions, further discussion was held between Dr McEwan and HNZPT staff.¹⁶⁶ In responding to relief sought by the submitter, Dr McEwan undertook further research into Francis Edgecombe and his family, that established the historic heritage values of the dwelling. Accordingly, Dr McEwan recommends that the building be scheduled, with a 'B' ranking.
578. Therefore, it is recommended that the submission be accepted, and the building be scheduled.
579. Heritage New Zealand Pouhere Taonga [559.223], while supporting the scheduling of the Potatau Monument (Heritage Item #98, Schedule 30.1), seeks that the extent of the identified 'setting' for the heritage item be extended to reflect the same setting area as identified in the Heritage New Zealand Pouhere Taonga List (Category 2, #757).
580. Dr McEwan supports this relief and has amended the extent of the setting in the Heritage Report to encompass the whole of the reserve, as identified in the listing information by HNZPT. This achieves consistency and clarity of protection.
581. Therefore, it is recommended that the submission be accepted.

¹⁶⁶ Zoom meeting, 31 March 2020

582. Heritage New Zealand Pouhere Taonga [559.230] seeks the addition of the building at 40 Main Street, Huntly, identified as the Former Kosoof bungalow/Rimu House to Schedule 30.1. Rimu Buildings Limited [FS1097.1] oppose the relief sought.
583. This building is not proposed to be scheduled in the district plan, scheduled in the Operative District Plan or listed by HNZPT.
584. Based on its significant architectural, cultural, and historic values Dr McEwan had, in 2017, recommended that the former Kosoof bungalow/Rimu House building be scheduled as an 'B'-ranked heritage item in the proposed district plan. Dr McEwan identified the building's historic significance via its association with a local retail family and the mid-century residential development of Huntly; and its technical significance for the methods and materials used in its construction.
585. HNZPT's reasons for wanting the Former Kosoof bungalow/Rimu House included in Schedule 30.1 are because it is "a very distinctive building with strong architectural values and decorative brick work and forms part of the social history of the district".¹⁶⁷ They support Dr McEwan's 'B' ranking recommendation.
586. Rimu Buildings Limited owns 40 Main Street, Huntly, the building having been in the same family for three generations and continuing to be used by them as commercial premises. Rimu Buildings Limited oppose scheduling the building because they have had a "binding agreement" with Council since 2004 that the building would not be scheduled in the district plan; that the "agreement" has been upheld over the years. and this is why the building is not scheduled in the Operative District Plan. It is understood, as outlined in their further submission, that there is no written evidence of this agreement; and that the essence of it was that the Kosoof Family agreed to allow the scheduling of their other building at 116-118 Main Street, known as Les Kosoof & Sons Building (Operative District Plan, CI. Historic Heritage Item # 33; B-ranking) in return for the 40 Main Street not being scheduled.¹⁶⁸
587. The Rimu Buildings Limited's further submission also sets out the repairs required and those that have been undertaken; and that in their opinion the building "is at the end of both its effective and economic life".¹⁶⁹ It is their plan to have the site cleared and to redevelop it with townhouses. Rimu Buildings Limited also state that if the removal was prohibited, and as they do not intend to sell the site, the building would be left to "decay naturally with a view that the next generation will be allowed to use the property more productively and for the benefit of the community" but they say, "due to this process the property's appearance is like to detract from town centre".¹⁷⁰
588. Outlined in the Section 32 Report for Historic Heritage is the process that council followed in finalising the content of the proposed district plan relating to historic heritage (built heritage and notable trees). Section 1.8 Decision-making of the Section 32 Report specifically identified certain buildings that, although recommended for inclusion by Dr McEwan, were not included under council direction. The Former Kosoof bungalow/Rimu House building was one of those. The specific reason for not scheduling this building was because the landowner had advised council that they did not wish their building to be scheduled, and

¹⁶⁷ Heritage New Zealand Pouhere Tonga submission, 2018, submission point 559.230, page 71

¹⁶⁸ This building continues to be scheduled in the Proposed District Plan, ID# 59, B ranking; and not challenged.

¹⁶⁹ Rimu Buildings Limited, Further Submission, 1097.1, page 2 of the attached information

¹⁷⁰ Rimu Buildings Limited, Further Submission, 1097.1, page 2-3 of the attached information

councillors decided that “due to the owners of these properties continuing protection of these buildings, they should not be included in the schedule”.¹⁷¹

589. Dr McEwan has revisited her 2017 assessment and her opinion continues to be that the building has high heritage significance warranting scheduling in the district plan. She has advised that she was not aware of any agreements between the council and landowner. Her assessment of the historic significance of the building was therefore untainted by past arrangements. In reviewing the submission, Dr McEwan is now of the opinion that “if such an agreement exists, then it may be that scheduling cannot proceed”. Nevertheless, it is my opinion that even with previous agreements dating back to 2004, the district plan review is a chance to revisit and reconsider the matters to be addressed through the district plan; and this is the approach undertaken by Dr McEwan in reviewing the district’s historic heritage.
590. The scheduling of buildings deemed to have heritage significance warranting protection is a statutory process under the district plan, to afford the building statutory mechanisms under the RMA to provide actual physical protection. Scheduling does not prohibit the use and the ability to successfully undertake the repurposing of buildings. The purpose of the RMA (s.5) is to ensure the sustainable use of all resources; in the instance of a heritage item it is both its heritage values and its physical form (e.g. a building and site). As a result, the repurposing of heritage buildings is encouraged in a manner that ensures the suitable use of the building resource while maintaining the individual buildings’ heritage context and associated heritage values. The provisions set out in the district plan are there to ensure that any modifications do not erode those identified heritage values.
591. Appropriate subdivision, use and development of built heritage are anticipated, as stated in the Waikato Regional Policy Statement (‘WRPS’). The scheduling of heritage items is to assist in the protection and enable development of such items and their sites to be undertaken with full understanding of their value, and that the destruction or damage of heritage items is to be avoided.
592. The RMA mandates the hierarchy of high-level planning documents and legislation that a local authority must consider and follow when undertaking a district plan review (section 31, RMA). The WRPS directs local authorities to protect the region’s historic heritage. Waikato District Council achieves this through the planning framework in a district plan. As part of reviewing the Waikato Operative District Plan, Council engaged Dr McEwan to undertake an extensive built heritage assessment, including a historic overview and identification of the built heritage resources in the district. Dr McEwan outlined in her 2016-17 report the assessment and review of the existing buildings scheduled under the Operative District Plan, as well as the consideration of other buildings/structures that merit scheduling. Dr McEwan’s assessment was predicated upon the criteria in Section 10A of the WRPS.¹⁷²
593. In my opinion, ownership, the threat of demolition by neglect, or the need for repair to be undertaken should not be the defining matters to determine heritage significance and afford protection. The RMA identifies heritage as a matter of national importance, and section 10 of the WRPS sets the direction for district plans, including the protection of historic and cultural heritage from inappropriate subdivision, use and development.¹⁷³ Council has

¹⁷¹ Waikato District Council, Section 32 Report - Part 2 Historic Heritage, July 2018, Section 1.8 Decision Making, page 10

¹⁷² McEwan, A, Heritage Consultancy Services, 2017, WDC District Plan Review – Built Heritage Assessment: Identification of Waikato District Council’s Built Heritage Resources, Executive Summary, page 2

¹⁷³ Waikato Regional Policy Statement, 10.3.1 Protect historic and cultural heritage from inappropriate subdivision use and development <https://www.waikatoregion.govt.nz/Council/Policy-and-plans/Regional-Policy-Statement/RPS2016/Part-B/10/3/Implementation-methods/1/>

obligations to protect the district's historic heritage. The approach and reasoning taken in 2018 not to schedule the building because of ownership is not considered best practice in the protection of historic heritage. This is, in my opinion, problematic - the action does not achieve either section 5 or 6 of the RMA and is not forward-thinking about what future owners may wish to do with the building. Not scheduling leaves both the building and local heritage values vulnerable.

594. Therefore, I recommend that 40 Main Street, Huntly be scheduled; the submission by HNZPT be accepted and the further submission by Rimu Buildings Limited be rejected.
595. Heritage New Zealand Pouhere Taonga [559.231] seeks the addition of the building known as the 'Former Taupiri Post Office and Postmaster's Residence' at 3 The Crescent, Taupiri to Schedule 30.1, with a 'B' ranking. This building is not scheduled in the Operative District Plan or on the Heritage New Zealand Pouhere Taonga list.
596. Dr McEwan advises that it was her recommendation that this building be scheduled, and she continues to hold that opinion due to the building's heritage significance.
597. In 2018, council engaged Architecture and Conservation Limited ('Archifact') to undertake a peer review of the thirteen buildings proposed to be scheduled; one being the Former Taupiri Post Office and Postmaster's Residence. Archifact supported Dr McEwan's recommendation to schedule this building with a 'B' ranking.
598. Section 1.8 Decision-making of the Section 32 Report specifically identified certain buildings that, although recommended for inclusion by Dr McEwan, were not included under council direction. The Former Taupiri Post Office and Postmaster's Residence was one of those, because the landowner had advised council that they did not wish their building to be scheduled, and councillors decided that "due to the owners' of these properties continuing protection of these buildings, they should not be included in the schedule".
599. Local authorities are required to achieve their obligations under the RMA to ensure the sustainable use of resources and to protect matters of national importance, such as historic heritage. The approach and reasoning taken in 2018 to not schedule the building is, in my opinion problematic; the action does not achieve either section 5 or 6 of the RMA, and in not forward thinking about what future owners may wish to do with the building makes both the building and the local heritage values vulnerable and at risk of modification or destruction. The approach of not listing because of ownership is not considered best practice in the protection of historic heritage.
600. Scheduling for heritage protection in the district plan does not prohibit the use and the ability to successfully undertake repurposing of buildings of this nature. The purpose of the RMA (s.5) is to ensure the sustainable use of all resources; in the instance of a heritage item it is both its heritage values and its physical form (e.g. a building and site). As a result, the adaptive reuse of heritage buildings is encouraged in a manner that ensures the suitable use of the building resource while maintain the individual buildings' heritage context and associated heritage values. The provisions set out in the district plan are there to ensure that any modifications do not erode those identified heritage values.
601. Therefore, it is recommended that the submission be accepted and the building be scheduled.
602. Heritage New Zealand Pouhere Taonga [559.232] seeks the addition of the building identified as the 'Former Robinsons Boarding House' at 79 Wilton Collieries Road, Glen

Massey to Schedule 30.1 with a 'B' ranking. This submission is supported by Ben Laing [FS/001.1]. This building is not scheduled in the Operative District Plan or on the Heritage New Zealand Pouhere Taonga list.

603. Dr McEwan advises that it was her recommendation that this building be scheduled, and she continues to hold that opinion due to the building's heritage significance.
604. In 2018 council engaged Architecture and Conservation Limited ('Archifact') to undertake a peer review of the thirteen buildings proposed to be scheduled - one being the Former Robinsons Boarding House. Archifact was asked to consider the proposed scheduling because the building sits within a flood plain and has been subjected to floods. Archifact, while not make any specific statements pertaining to the building's location and flooding history, supported Dr McEwan's recommendation to schedule this building with a 'B' ranking.
605. Outlined in the Section 32 Report for Historic Heritage is the process council took to finalise the content of the proposed district plan relating to historic heritage (built heritage and notable trees). Section 1.8 Decision-making of the Section 32 Report specifically identified certain buildings that, although recommended for inclusion by Dr McEwan, were not included under council direction. The Former Robinsons Boarding House was one of those. Council adopted the staff recommendation that scheduling could be inappropriate due to the building's location and issues with the property.¹⁷⁴
606. In considering the submission by HNZPT, further discussion was held between HNZPT and Dr McEwan on whether the flood risk was problematic. It was noted that the owners have restored the building and the scheduling of the building would provide eligibility for funding to assist with any site issues, such as flooding, to ensure the building's protection. Both parties also noted the strong link that this building has with the mining history at Glen Massey.¹⁷⁵
607. Ben Laing, owner of this building, in his further submission outlines the work that has been undertaken in the past 3 years to sympathetically restore the building. He also shares the opinion of both Dr McEwan and HNZPT that the building has heritage significance for the community.
608. Local authorities are required to achieve their obligations under the RMA to ensure the sustainable use of resources and to protect matters of national importance, such as historic heritage. The approach and reasoning taken in 2018 to not schedule the building is contrary to other statements in the s.32 report that correctly identify that "once these structure[s] and places are destroyed, they cannot be replaced".¹⁷⁶ Protection through scheduling a building promotes the sustainable management of this physical resource. As identified by HNZPT, the existing state of a building or its surroundings does not affect its associated heritage values and should not limit its scheduling. The absence of protection leaves the heritage item vulnerable and therefore not sustained for future generations.
609. Therefore, it is recommended the submission and further submission be accepted and the building be scheduled.

¹⁷⁴ Waikato District Council, Section 32 Report - Part 2 Historic Heritage, July 2018, Section 1.8 Decision Making, page 10-11

¹⁷⁵ Zoom meeting, 31 March 2020

¹⁷⁶ Waikato District Council, Section 32 Report - Part 2 Historic Heritage, July 2018, Section 1.8 Decision Making, page 5

610. Heritage New Zealand Pouhere Taonga [559.233] seeks the addition of the building identified as the 'Former Cavanagh Residence', located at 67 Ellery Street, Ngaruawahia to Schedule 30.1 with an 'A' ranking. This building is not scheduled in the Operative District Plan or on the Heritage New Zealand Pouhere Taonga list.
611. In 2018, council engaged Architecture and Conservation Limited ('Archifact') to undertake a peer review of thirteen buildings proposed to be scheduled. One of these buildings was the Former Cavanagh Residence. Archifact supported Dr McEwan's recommendation to schedule this building with a 'B' ranking.
612. Section 1.8 Decision-making in the Section 32 Report specifically identified certain buildings that, although recommended for inclusion by Dr McEwan, were not included under council direction. The Former Cavanagh Residence was one of those. Council adopted the staff recommendation that scheduling could be inappropriate due to the building's current state and issues with the property.
613. HNZPT, in support of their submission, highlighted that buildings have the potential to be restored and it is premature for buildings not to be included in the schedule due to their current state.
614. Dr McEwan advises that it was her recommendation that this building be scheduled, and she continues to hold that opinion due to the building's heritage significance.
615. Local authorities are required to achieve their obligations under the RMA to ensure the sustainable use of resources and to protect matters of national importance, such as historic heritage. The approach and reasoning taken in 2018 not to schedule the building is contrary to other statements in the s.32 report that correctly identify that "once these structure[s] and places are destroyed, they cannot be replaced".¹⁷⁷ Protection through scheduling the building promotes the sustainable management of this physical resource. As identified by HNZPT, the existing state of a building should not limit its scheduling; buildings can be restored, and the repurposing of heritage buildings encouraged while maintaining the individual buildings' heritage context and associated heritage values. The absence of protection leaves the heritage items vulnerable to further deterioration and possibly demolition, therefore not sustained for future generations.
616. Therefore, it is recommended that the submission be accepted and the building be scheduled.
617. Heritage New Zealand Pouhere Taonga [559.235] supports the continued protection of the six former railway cottages on Harris Street, Huntly (Schedule 30.1: ID #64, 47 Harris Street; #65, 41 Harris Street; #66, 39 Harris Street; #67, 37 Harris Street; #68, 35 Harris Street; and #69, 33 Harris Street) but questions why their ranking has changed to a 'B'; and seek that they are also recognised collectively as a precinct. These buildings are presently scheduled under the Operative District Plan with an 'A' ranking (Schedule C1 Historic Heritage Items #40, #42 - #46).
618. Dr McEwan, in her 2017 assessment study, stated that the six Harris Street buildings continued to have historic interest as well-preserved examples of mid-1920s railway workers' dwellings; recommending that their 'A' ranking be revised to a 'B'. Dr McEwan also recommended the recognition of the cottages as a precinct.

¹⁷⁷ Waikato District Council, Section 32 Report - Part 2 Historic Heritage, July 2018, Section 1.8 Decision Making, page 5

619. As part of the consideration of the submissions, further discussion was held between Dr McEwan and HNZPT staff.¹⁷⁸ Dr McEwan advised that the revised ranking was to ensure that the Huntly railway cottages were ranked consistently with the railway cottages in Ngaruawahia (Schedule 30.1 ID#125 - #128). This explanation was acknowledged by HNZPT.
620. In the Proposed District Plan these cottages are also covered by the 'Huntly Heritage Precinct' (refer to Figure 3) and managed through Appendix 3.5 Huntly Heritage Precinct Design Guide.¹⁷⁹ The design guide addresses setback, form, materials and how new buildings, additions and alterations can occur. It is considered that this meets the relief sought by HNZPT to ensure that the collective value of these cottages is recognised, while ensuring that modifications can occur to ensure that the buildings can continue to be liveable.¹⁸⁰

Figure 3: Huntly Heritage Precinct, Planning Map 20.3 - Huntly South, Waikato Proposed District Plan, 2018



621. No further action is required; therefore it is recommended that the submission be accepted.
622. Heritage New Zealand Pouhere Taonga [559.236] ('HNZPT') raises concern that there has only been partial recognition of the Ministry for Culture and Heritage's New Zealand War Memorial Heritage Inventory via the items scheduled in the proposed district plan. HNZPT seeks the addition to Schedule 30.1 of the following New Zealand War Memorial Heritage Inventory items; noting these are not on the HNZPT List:
- Kariotahi School Roll of Honour
 - Ngaruawahia NZ War Memorial
 - Otaua War Memorial Bowling Green
 - Otaua Hall
 - Tauwhare War Memorial Hall

¹⁷⁸ Zoom meeting, 31 March 2020

¹⁷⁹ Waikato Proposed District Plan, Appendix 03.5 Huntly Heritage Precinct Design Guide
https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/appendices/appendix-3-5-huntly-heritage-precinct-design-guide-notified-18072018.pdf?sfvrsn=8c8980c9_4

¹⁸⁰ Zoom meeting, 31 March 2020

- Te Hoe Hall
 - Te Uku & District Memorial Hall
 - Tuakau Service Memorial
 - Waikaretu War Memorial Hall
 - Whatawhata Cemetery NZ Wars Memorial
 - Whitikaku Memorial Hall.
623. This submission has been further submitted on by Te Uku & District Memorial Hall Inc [FS1043.1], who opposes the scheduling of the Te Uku & District Memorial Hall.
624. Dr McEwan has reviewed the eleven New Zealand War Memorial Heritage Inventory items proposed by HNZPT and recommends that the following three should be scheduled:
- **Kariotahi School Roll of Honour** - Dr McEwan considers that, as the Roll of Honour is located inside the former Karioitahi School building that is already scheduled (ID# 23), this provides adequate protection.
 - **Te Hoe Memorial Hall** - Dr McEwan recommends that the Te Hoe Memorial Hall be scheduled with a 'B' Ranking. The hall has cultural significance as a war memorial and meeting place for the community; it has historic significance for its association with the people of Te Hoe; and has technological value for its construction methods and materials.
 - **Whitikaku Memorial Hall** - Dr McEwan recommends that the Whitikahu Hall and McCallum memorial gates be scheduled with a 'B' Ranking. The hall and gates have architectural value for their vernacular design and visual impact upon the local streetscape; cultural significance as a meeting place for the community and site of commemoration and historic significance for their association with the people of Whitikahu, particularly Rex McCallum, and the life of the community; and technological value for their construction methods and materials and execution by locals.
625. Dr McEwan recommends that the remaining seven should not be scheduled (refer to attachment 6 of Dr McEwan's report: Waikato District Plan Review Proposed District Plan - Heritage submissions, April 2020).¹⁸¹ As part of the consideration of the submissions, further discussion was held between Dr McEwan and HNZPT staff.¹⁸² The outcome of that discussion was HNZPT identifying five New Zealand War Memorial Heritage Inventory items that they would not actively pursue, although their interest in these items has not been withdrawn.¹⁸³ As a result, the following New Zealand War Memorial Heritage Inventory items are not proposed to be scheduled:
- Otua Hall
 - Tauwhare War Memorial Hall
 - Te Uku & District Memorial Hall
 - Tuakau Service Memorial
 - Waikaretu War Memorial Hall.
626. Three items remain in contention. Dr McEwan does not recommend scheduling, while Heritage New Pouhere Taonga have advised that they will pursue the following:

¹⁸¹ Otua Hall, Tauwhare War Memorial Hall, Te Uku & District Memorial Hall, Tuakau Service Memorial, Waikaretu War Memorial Hall, Ngaruawahia NZ War Memorial, and Whatawhata Cemetery NZ Wars Memorial.

¹⁸² Zoom meeting, 31 March 2020

¹⁸³ Zoom meeting, 31 March 2020

- **Otaua War Memorial Bowling Green** - Dr McEwan agrees that the Otaua Memorial Bowling Club Gates & Boundary Wall have overall significance to Waikato District and should be scheduled as a 'B'-ranked item. However, she is not of the opinion that the bowling green and collection of auxiliary buildings warrant scheduling, noting however, that as the green constitutes the setting of the war memorial, the gates and fence would need to be considered in light of any works to them impacting on the overall setting of the memorial.
 - **Ngaruawahia NZ War Memorial** - Dr McEwan advises that the monument's historic and aesthetic values are most appropriately recognised within the cemetery's reserve management plan.
 - **Whatawhata Cemetery NZ Wars Memorial** - Dr McEwan advises that the memorial lacks sufficient authenticity and is best managed and protected by the Ministry for Culture and Heritage.
627. Through the discussion with HNZPT they raised concern over the vulnerability of these memorials because of location and/or land ownership; if the land were developed the memorial could be compromised. HNZPT staff consider scheduling in the district plan would provide protection.
628. In regard to these latter two - the Ngaruawahia and Whatawhata memorials - I have also sought advice from the Ministry for Culture and Heritage on the protection mechanisms that they provide for the protection of memorials identified on the New Zealand War Memorial Heritage Inventory. The Ministry for Culture and Heritage is only responsible for the care of the actual graves or memorials, not the surrounding land. Through scheduling in the district plan, both the items and their settings would be protected. The Ministry's staff have advised that scheduling in the district plan affords the memorials and their settings statutory protection that is not available under the Ministry's control. As a result, while I have considered Dr McEwan's recommendation that these items would be adequately protected without being scheduled, with the advice also gained from the Ministry I recommend taking a precautionary approach to ensure that these memorials have greater statutory protection under the RMA, and to schedule the Ngaruawahia and Whatawhata memorials.
629. Therefore, it is recommended that the following memorials be scheduled:
- Ngaruawahia NZ War Memorial
 - Otaua Memorial Bowling Club Gates & Boundary Wall (not the Otaua War Memorial Bowling Green)
 - Te Hoe Hall
 - Whatawhata Cemetery NZ Wars Memorial
 - Whitikaku Memorial Hall
630. I recommend that the submission by HNZPT be accepted in part; and that the further submission by the Te Uku & District Memorial Hall Inc be accepted.
631. Ministry of Education [781.21], [781.22] and [781.23] opposes the inclusion of the Te Mata School Building (ID# 184), Harrisville School Teacher's house (ID# 7) and the Tamahere School Building (ID# 177) in Schedule 30.1 Historic Heritage Items. All three of these submission points have been further submitted on by Heritage New Zealand Pouhere Taonga [FS/323.136], [FS/323.137] and [FS/323.138], opposing the relief sought.
632. The Ministry highlights that the sites on which these scheduled heritage items are situated are designated in accordance with s.176 of the RMA. In accordance with s.176.1a of the RMA, the Requiring Authority - in this instance the Ministry of Education - are not required,

to give effect to or consider the rules of the district plan as relevant to the said site, as highlighted by the submitter. The Ministry states that scheduling these buildings would “unreasonably raise the expectations of school communities that the school sites are protected under the District Plan”; and the relief that they seek - removing these buildings from Schedule 30.1, would “avoid confusion”.

633. The three are all designated for ‘Education Purposes’ in accordance with section 176 of the RMA.¹⁸⁴
634. Harrisville School Teacher’s house (ID# 7) and Te Mata School building (ID# 184) are not scheduled in the Operative District Plan or listed by HNZPT. Tamahere School building (ID# 177) is already a scheduled building under the Operative District Plan (Schedule C1 Historic Heritage Items, #71) and on the Heritage New Zealand Pouhere Taonga List (Category 2, #742).
635. Dr McEwan recommended the scheduling of these three buildings because they meet the criteria for heritage protection relating to educational activities. Individually they all have architectural significance relating to when they were built, and/or who designed or built them:¹⁸⁵
- **Te Mata School Building (ID# 184)** - The school was established in 1877 and the purpose-built schoolhouse erected in 1905. The building contributes to the village hub, and has architectural significance as an example of the work of John Mitchell, Auckland Education Board architect.
 - **Harrisville School Teacher’s house (ID# 7)** - The building has archaeological significance pertaining to educational activities on the site since 1877, architectural significance as a late 19th century cottage that maintains a good level of authenticity, and high historic significance for its association with the provision of education to local children since 1877 and the staff of the school since 1884.
 - **Tamahere School Building (ID# 177)** - The building has architectural significance as an example of the work by Henry Allright, Auckland Education Board architect, and historic significance for its association with Tamahere’s early settlers and the provision of education to the community.
636. Dr McEwan’s review of the submitter’s reasoning for the removal of these buildings from Schedule 30.1 has not altered her original opinion that these buildings have heritage values being adequately significant to warrant protection.¹⁸⁶ Dr McEwan has also identified that other designated school sites contain scheduled heritage sites, and these have not been opposed by the Ministry of Education.
637. Under the RMA the designation of a site ensures the use of that land for that specific activity, and the designation overrides the district plan rules for land uses that are the designated purpose.
638. Contrary to the Ministry’s opinion that removing the items from Schedule 30.1 will “avoid confusion” and the “expectation of school communities”, I am of the opinion that retaining these buildings on the schedule will in fact reduce confusion. Scheduling makes it clear what

¹⁸⁴ Tamahere School (Designation # C40), Te Mata School (Designation # C44), and Harrisville School (Designation # C47), 2017 Waikato District Proposed District Plan, Section E: Designations.

¹⁸⁵ McEwan, A, Heritage Consultancy Services, 2017, WDC District Plan Review – Built Heritage Assessment: Identification of Waikato District Council’s Built Heritage Resources

¹⁸⁶ McEwan, A, Heritage Consultancy Services, 2020 Waikato District Plan Review - Proposed District Plan - Heritage submissions, Submissions 781.21, 781.22 & 781.23; pages 12 - 13

their heritage values are and how those buildings need to be managed, and reduces the risk of destruction or modification. Scheduling of these buildings, also, in my opinion, assists the Ministry and School Boards to align their annual and long-term planning for the school sites and to ensure alignment with the Government's 2004 policy of respecting heritage values and providing for heritage protection and management. Both Dr McEwan and HNZPT have highlighted the importance of a government ministry adhering to this policy.

639. It is also important to consider the impact of these buildings if the designations were removed in the future and these buildings were not protected under the district plan. Such a situation would leave these items of heritage significance vulnerable. Retaining these buildings on Schedule 30.1 would avoid this situation and ensure that any future owner would be aware of their heritage significance.
640. Therefore, it is recommended that the Te Mata School building, Harrisville School Teacher's house and Tamahere School building be retained in Schedule 30.1, and that the three submissions by the Ministry of Education be rejected.

9.1.8 Recommendations

641. For the reasons given above, I recommend that the Hearings Panel:

Accept Robina Ross [115.1]; Heritage New Zealand Pouhere Taonga [FS/323.134]; Heritage New Zealand Pouhere Taonga [559.226] - Schedule 14 Galileo Street, Ngaruawahia

Reject Raglan Properties Limited [217.1], **Accept** Heritage New Zealand Pouhere Taonga [FS/323.135], and Whaingaroa Environmental Defence Inc. Society [FS/276.269] - Schedule 19 Bow Street, Raglan

Reject Lana & Michael Wells [231.1], **Accept** Heritage New Zealand Pouhere Taonga [FS/323.139] - Schedule 1, Old Taupiri Road, Ngaruawahia

Reject Lodge Te Marama No 186 [242.1] and The Village Church [303.1], **Accept** Heritage New Zealand Pouhere Taonga [FS/323.140] and [FS/323.141] - Schedule Masonic Lodge Te Marama, No 186 1912/16 at 18 Herschel Street, Ngaruawahia

Accept in part The Trustees of the Valmont & Oakefield Trusts [288.1], **Accept** Heritage New Zealand Pouhere Taonga [FS/323.142] - Schedule 'Clunes'/Cameron's Castle' at 165 Wairamarama Onewhero Road, Onewhero

Accept in part Susanne Giessen-Prinz [600.1], Heritage New Zealand Pouhere Taonga [FS/323.144], Whaingaroa Environmental Defence Inc. Society [FS/276.72] - Heritage item #140, 58 Wallis Street, Raglan

Accept Dee Bond [946.3] - Heritage New Zealand Pouhere Taonga [559.229]; **Reject** Jackson Property Group [FS/022.1] - Schedule Former Marist Juniorate Training College building, located at 131-139 Dominion Road, Tuakau

Hamilton City Council [535.85], Heritage New Zealand Pouhere Taonga [FS/323.143] - St Paul's Methodist Church (previously at London Street, Hamilton) - Refer to The Addendum.

Accept Heritage New Zealand Pouhere Taonga [559.219] - Schedule F H Edgecumbe residence, 11 Lower Waikato Esplanade, Ngaruawahia

Reject Heritage New Zealand Pouhere Taonga [559.220] - Komakorau Hall located at 50 Woodlands Road, Gordonton is not scheduled

Reject Heritage New Zealand Pouhere Taonga [559.221] - Former Burnett Residence located at 11 Luff Place, Ngaruawahia is not scheduled

Reject Heritage New Zealand Pouhere Taonga [559.222] - Former Post Office (relocated) located at 10 Amber Lane, Puketaha is not scheduled

Accept Heritage New Zealand Pouhere Taonga [559.223] - Potatau Monument

Reject Heritage New Zealand Pouhere Taonga [559.224] - First Industries cottage and site located at 92B Te Onetea Road, Rangiriri, is not scheduled

Reject Heritage New Zealand Pouhere Taonga [559.225] - Former Government Department Building 78 Matangi Street, Matangi, is not scheduled

Accept Heritage New Zealand Pouhere Taonga [559.227], Whaingaroa Environmental Defence Inc. Society [FS/276.70] - Schedule Former Gilmore Bros Shop at 11 Bow Street, Raglan

Accept Heritage New Zealand Pouhere Taonga [559.228]; Whaingaroa Environmental Defence Inc. Society [FS/276.71] - Schedule Former AR Langley building from the Operative District Plan, located at 19 Bow Street, Raglan

Accept Heritage New Zealand Pouhere Taonga [559.230]; **Reject** Rimu Buildings Limited [FS/097.1] - Schedule the Former Kosoof building bungalow/Rimu House, located at 10 Main Street, Huntly

Accept Heritage New Zealand Pouhere Taonga [559.231] - Schedule the Former Taupiri Post Office and Postmaster's Residence, located at 3 The Crescent, Taupiri

Accept Heritage New Zealand Pouhere Taonga [559.232]; Ben Laing [FS/001.1] - Schedule the Former Robinsons Boarding House located at 79 Wilton Collieries Road, Glen Massey

Accept Heritage New Zealand Pouhere Taonga [559.233] - Schedule the Former Cavanagh Residence, located at 67 Ellery Street, Ngaruawahia

Accept Heritage New Zealand Pouhere Taonga [559.235] - Schedule and retain in a precinct the Former Huntly Railway Workers' Cottages at 33, 35, 37, 39, 41, and 47 Harris Street, Huntly

Accept in part Heritage New Zealand Pouhere Taonga [559.236]; **Accept** Te Uku & District Memorial Hall Inc [FS/043.1] - Schedule the following New Zealand War Memorial Heritage inventory items:

- Ngaruawahia NZ War Memorial
- Otua Memorial Bowling Club Gates & Boundary Wall (not the Otua War Memorial Bowling Green)
- Te Hoe Hall
- Whatawhata Cemetery NZ Wars Memorial
- Whitikaku Memorial Hall

Reject Ministry of Education [781.21]; **Accept** Heritage New Zealand Pouhere Taonga [FS/323.136] - Schedule the Te Mata School building (ID 184)

Reject Ministry of Education [781.22]; **Accept** Heritage New Zealand Pouhere Taonga [FS/323.137] - Schedule Harrisville School Teacher's house (ID 7)

Reject Ministry of Education [781.23]; **Accept** Heritage New Zealand Pouhere Taonga [FS/323.138] - Schedule Tamahere School Building (ID 177).

9.1.9 Recommended amendments

642. The following amendments are recommended:

The inclusion of the following heritage items in Schedule 30.1 (noting the allocation of ID# will occur following the mapping of these):

TUAKAU						
ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
23	Former Kariaotahi School/Karioitahi Hall and the Karioitahi School Roll of Honour (1931) ¹⁸⁷	Binns Road, Karioitahi	A	-		
##	Former Marist Juniorate Training College building, LaValla College (1925-26) ¹⁸⁸	131 - 139 Dominion Road, Tuakau	A	-		
##	Otaua Memorial Bowling Club Gates & Boundary Wall (1954) ¹⁸⁹	36 Maoro Road, Otaua	B			
POKENO						
ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
TE KAUWHATA						
ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink

¹⁸⁷ [559.236]

¹⁸⁸ [946.3][559.229], [FS1022.1]

¹⁸⁹ [559.236]

HUNTLY						
ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
##	Former Kosoof Bungalow/'Rimu House' (c.1929) ¹⁹⁰	40 Main Street, Huntly	B	-		
NGARUAWAHIA						
ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
##	Former Robinsons' Boarding House (1914) ¹⁹¹	79 Wilton Collieries Road, Glen Massey	B	-		
##	Ngaruawahia New Zealand War Memorial ¹⁹²		*	-		*
##	Former FH Edgecumbe Residence (c.1887) ¹⁹³	11 Lower Waikato Esplanade, Ngaruawahia	B	List # 4256		
##	Former Mines/King House ¹⁹⁴	14 Galileo Street, Ngaruawahia	B			*
##	Former Cavanagh Residence (c.1912-14) ¹⁹⁵	67 Ellery Street, Ngaruawahia	B	-		
##	Former Taupiri Post Office & Postmaster's Residence (1920-21) ¹⁹⁶	3 The Crescent, Taupiri	B	-		
RAGLAN						

¹⁹⁰ [559.230], [FS1097.1]

¹⁹¹ [559.232], [FS1001.1]

¹⁹² [559.236]

¹⁹³ [559.219]

¹⁹⁴ [115.1], [559.226]

¹⁹⁵ [559.233]

¹⁹⁶ [559.231]

ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
##	Former Gilmour Bros Shop (1924) ¹⁹⁷	11 Bow Street, Raglan	B	-		* —
##	Former AR Langley Building ¹⁹⁸	19 Bow Street, Raglan	B	-		* —
EASTERN SECTOR						
ID#	Heritage Item	Address	Ranking	HNZPT List Entry	Planning Map Number	WDC Historic Heritage Item Record Form Hyperlink
##	Whitikahu or Whitikaku Memorial Hall (1938) ¹⁹⁹	Whitikahu Road, Whitikahu	B			* —

* Note a Heritage Report will be required to be completed if these recommendations are adopted.

9.1.10 Section 32AA evaluation

Other reasonably-practicable options

643. The amendments to the listings in Schedule 30.1 Heritage Items are considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

644. The amendments improve the effectiveness of the rule and plan administration by ensuring the protection of identified schedule heritage items.

Costs and benefits

645. There will be costs to the landowners of sites that were, not scheduled at notification, but as a result of the submissions are now recommended to be protected. There are benefits to the environment with the amendments to ensure clarity around which items have adequate significance to warrant protection.

Risk of acting or not acting

646. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to Schedule 30.1 to ensure good plan administration and consistency across all relevant zones.

Decision about the most appropriate option

¹⁹⁷ [559.227], [FS1276.70]

¹⁹⁸ [217.1], [FS1323.135], [FS1276.269], [559.228], [FS1276.71]

¹⁹⁹ [559.236]

647. The amendment is considered to strengthen the district plan's ability to appropriately achieve the district plan's policy direction for the protection of historic heritage.

9.2 Schedule 30.2 Notable Trees

9.2.1 Introduction

648. Schedule 30.2 is the list of notable trees that meet the evaluation criteria for protection. The schedule enables plan users to identify the protected items as a number on the planning maps and to cross-reference with the relevant objectives and policies set out in Chapter 7- Historic Heritage and the relevant Notable Tree rules in each zone.

9.2.2 Submissions

649. There are forty-one submission points and fifteen further submission points seeking amendments to Schedule 30.2 Notable Trees. Of those, the relief sought is either the addition of new trees or groups of trees, or the deletion of scheduled trees.

650. The following submissions were made:

Submission point	Submitter	Summary of submission
233.1	Trena Marshall	Add to Schedule 30.2 Notable Trees, the Puriri Tree at the southern boundary of 124 Greenslade Road, Raglan
FSI276.270	Whaingaroa Environmental Defence Inc. Society	Support
435.5	Jade Hyslop	Undertake a survey of notable trees AND Amend Schedule 30.2 – Notable Trees to include the following trees to the Raglan list: <ul style="list-style-type: none"> • Trees within 30m of the high-water mark between Bow Street Jetty and Helen Place. • Trees adjacent to the airfield. • Trees within 10m of Marine Parade. • Trees between recreation ground and Lily Street. • Trees on Wallis Street at foot of Government Road. • Trees in the gully between Rose Street and Lily Street. • Trees to the south west of SH23 between Hills Road and Greenslade Road. • Trees in the Lorenzen Bay Reserve. • Large trees should all be protected.
FSI276.42	Whaingaroa	Support

	<i>Environmental Defence Inc. Society</i>	
<i>FSI342.128</i>	<i>Federated Farmers</i>	<i>Oppose</i>
499.9	Adrian Morton	<p>Amend Schedule 30.2 – Notable Trees to include the following trees associated with Raglan:</p> <ul style="list-style-type: none"> • Trees within 30m of the high-water mark between Bow Street Jetty and Helen Place, Raglan. • Trees adjacent to the Raglan Airfield. • Trees within 10m of Marine Parade. • Trees between recreation ground and Lily Street, Raglan. • Trees on Wallis Street at foot of Government Road, Raglan. • Trees in the gully between Rose Street and Lily Street, Raglan. • Trees to the south west of SH23, Raglan between Hills Road and Greenslade Road. • Trees in the Lorenzen Bay Reserve • All large trees.
<i>FSI276.43</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
757.9	Karen White	<p>Amend Schedule 30.2 (Notable Trees) to include the following notable trees associated with Raglan:</p> <ul style="list-style-type: none"> • Trees within 30m of the high-water mark between Bow Street Jetty and Helen Place. • Trees adjacent to the Raglan Airfield. • Trees within 10m of Marine Parade. • Trees between recreation ground and Lily Street. • Trees on Wallis Street at foot of Government Road. • Trees in the gully between Rose Street and Lily Street. • Trees to the south west of SH23, between Hills Road and Greenslade Road. • Trees in the Lorenzen Bay Reserve and • Large trees.
<i>FSI276.41</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>

830.7	Linda Silvester	<p>Amend Schedule 30.2 Notable Trees by undertaking a survey of notable trees</p> <p>AND</p> <p>Add the following trees within Raglan to Schedule 30.2 Notable Trees:</p> <ul style="list-style-type: none"> • Trees within 30m of the high-water mark between Bow Street Jetty and Helen Place. • Trees adjacent to the airfield. • Trees within 10m of Marine Parade. • Trees between recreation ground and Lily Street. • Trees on Wallis Street at foot of Government Road. • Trees in the gully between Rose Street and Lily Street. • Trees to the south west of SH23 between Hills Road and Greenslade Road. • Trees in the Lorenzen Bay Reserve.
<i>FSI 276.53</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
946.4	Dee Bond	Amend Schedule 30.2 Notable Trees, as follows: 21 Kauri – 10 Liverpool Street, Tuakau.
367.51	Mercer Residents and Ratepayers Committee	Add the Kauri Tree located at 57 Koheroa Road, Mercer to Schedule 30.2 Notable Trees.
499.10	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include the trees adjacent to the Raglan Airfield.
<i>FSI 276.44</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
499.11	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include trees within 10 metres of Marine Parade.
<i>FSI 276.45</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
499.12	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include trees between the recreation ground and Lily Street, Raglan.
<i>FSI 276.46</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support</i>
499.13	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include the trees on Wallis Street at the foot of

		Government Road, Raglan.
FSI 276.47	Whaingaroa Environmental Defence Inc. Society	Support
499.21	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include the trees in the gully between Rose Street and Lily Street, Raglan.
FSI 276.48	Whaingaroa Environmental Defence Inc. Society	Support
499.22	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include the trees to the south west of State Highway 23, Raglan between Hills Road and Greenslade Road.
FSI 276.49	Whaingaroa Environmental Defence Inc. Society	Support
499.23	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include trees in the Lorenzen Bay reserve.
FSI 276.50	Whaingaroa Environmental Defence Inc. Society	Support
499.24	Adrian Morton	Amend Schedule 30.2 Notable Trees, to include all large trees.
FSI 276.51	Whaingaroa Environmental Defence Inc. Society	Support
780.40	Whaingaroa Environmental Defence Inc. Society	<p>Undertake a survey of notable trees AND Amend Schedule 30.2 – Notable Trees to include the following trees to the Raglan list:</p> <ul style="list-style-type: none"> • Trees within 30m of the high-water mark between Bow Street Jetty and Helen Place. • Trees adjacent to the airfield. • Trees within 10m of Marine Parade. • Trees between recreation ground and Lily Street. • Trees on Wallis Street at foot of Government Road. • Trees in the gully between Rose Street and Lily Street. • Trees to the south west of SH23 between Hills Road and Greenslade Road. • Trees in the Lorenzen Bay Reserve.

		Large trees should all be protected.
825.40	John Lawson	<p>Undertake a survey of notable trees AND Add the following trees in Raglan to Schedule 30.2 – Notable Trees:</p> <ul style="list-style-type: none"> • Trees within 30m of the high-water mark between Bow Street Jetty and Helen Place. • Trees adjacent to the airfield. • Trees within 10m of Marine Parade. • Trees between recreation ground and Lily Street. • Trees on Wallis Street at foot of Government Road. • Trees in the gully between Rose Street and Lily Street. • Trees to the south west of SH23 between Hills Road and Greenslade Road. • Trees in the Lorenzen Bay Reserve. <p>Large trees should all be protected</p>
942.63	Tainui o Tainui	<p>Add notable trees to Schedule 30.2 Notable Trees including the following: Pohutukawa tree at Te Whaanga Puriri trees, Ngaio and Kowhai located between Iwitahi and Pauaeke AND Undertake a survey by tangata whenua of notable trees over-boarding Karioi Native reserve</p>
<i>FS1035.99</i>	<i>Pareoranga Te Kata</i>	<i>Oppose</i>
697.427	Waikato District Council	<p>Amend Schedule 30.2 Notable Trees as follows: Move ID 7 symbol to 19 Helenslee Road, Pokeno AND Amend ID 7 to read 19 Helenslee Road, Pokeno</p>
697.428	Waikato District Council	Delete ID 9 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.429	Waikato District Council	Delete ID 13 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.430	Waikato District Council	Delete ID 28 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.431	Waikato District	Delete ID 41 Notable Tree from Schedule 30.2;

	Council	associated planning maps and undertake consequential renumbering
697.432	Waikato District Council	Delete ID 46 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.433	Waikato District Council	Delete ID 47 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.434	Waikato District Council	Delete ID 60 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.435	Waikato District Council	Delete ID 61 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.436	Waikato District Council	Delete ID 66 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.437	Waikato District Council	Delete ID 80 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.438	Waikato District Council	Delete ID 87 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.439	Waikato District Council	Delete ID 95 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.440	Waikato District Council	Delete ID 110 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.441	Waikato District Council	Delete ID 127 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.442	Waikato District Council	Delete ID 138 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.443	Waikato District Council	Delete ID 139 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.444	Waikato District Council	Delete ID 143 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.445	Waikato District Council	Delete ID 149 Notable Tree from Schedule 30.2; associated planning maps and undertake

		consequential renumbering
697.446	Waikato District Council	Delete ID 150 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.447	Waikato District Council	Delete ID 154 Notable Tree from Schedule 30.2; associated planning maps and undertake consequential renumbering
697.448	Waikato District Council	Add the following new tree to Schedule 30.2 Notable Trees: Rhododendron 'Sir Robert Peel', 32 Main Road, Te Kauwhata AND Amend the associated planning map
697.449	Waikato District Council	Add the following new tree to Schedule 30.2 Notable Trees: Blue Atlas Cedar, 202 Matangi Road, Matangi AND Amend the associated planning map
697.450	Waikato District Council	Add the following new tree to Schedule 30.2 Notable Trees: Oak, 5 Riverglade Drive, Tamahere AND Amend the associated planning map

9.2.3 Analysis

651. Waikato District Council [697.427] seek an amendment to Schedule 30.2 to correct the address of Notable Tree ID#7 both in the schedule and on the planning maps. Correcting this error will ensure good plan administration.
652. The following seven submission points all seek the addition of individual trees to Schedule 30.2:
653. Trena Marshall [233.1] requests the inclusion of a puriri tree located at the southern boundary of 124 Greenslade Road, Raglan. This is supported by Whaingaroa Environmental Defence Inc. Society [FS/276.270]. Mercer Residents and Ratepayers Committee [367.51] seeks amendment to Schedule 30.2 to include a kauri tree at 57 Koheroa Road, Mercer. Both trees have been assessed by Council's arborists and they have advised that neither tree reached the STEM point threshold of 160.
654. Dee Bond [946.4] seeks the inclusion of a kauri tree at 10 Liverpool Street, Tuakau. Waikato District Council [697.448], [697.449] and [697.450] requests the inclusion of the rhododendron 'Sir Robert Peel' at 32 Main Road, Te Kauwhata; the Blue Atlas cedar at 202 Matangi Road, Matangi; and Waikato District Council an oak tree at 5 Riverglade Drive, Tamahere. The four trees have been evaluated by the Council's arborists and all received STEM scores above the 160 point threshold.
655. The following group of submissions all seek the same or similar relief by the inclusion of numerous groupings of trees in and around Raglan: Jade Hyslop [435.5], Adrian Morton [499.9], [499.10], [499.11], [499.12], [499.13], [499.21], [499.22], [499.23] and [499.24],

Karen White [757.9], Linda Silvester [830.7], Whaingaroa Environmental Defence Inc. Society [780.40] and John Lawson [825.40]. These submissions are supported by the Whaingaroa Environmental Defence Inc. Society [FSI276.42], [FSI276.43], [FSI276.41], [FSI276.53], [FSI276.44], [FSI276.45], [FSI276.46], [FSI276.47], [FSI276.48], [FSI276.49], [FSI276.50] and [FSI276.51]. Federated Farmers of New Zealand [FSI342.128] oppose the submission by Jade Hyslop. Tainui o Tainui [942.63] seek the protection of a pohutukawa tree at Te Whaanga, a grouping of trees between Iwitahi and Pauaeke; and that a survey be undertaken by tangata whenua of notable trees at the Karioi Native Reserve. Pareoranga Te Kata [FSI035.99], while supporting the protection of Historic Heritage and Notable Trees, has a general opposition to Tainui o Tainui's submission in relation to Whaingaroa Raglan; Pareoranga Te Kata "do not revere Tainui in its Raupatu Settlement 1995". This is not a matter that can be addressed via this hearing report.

656. Section 76 of the RMA sets out the matters that a territorial authority may consider in carrying out its functions under the Act, including the management of trees. In relation to trees, Sections 76(4A), 76(4B), 76(4C) and 76(4D) outline the parameters with which protection can be applied. Specifically, trees must be identified individually or as a group (e.g. a cluster, grove or line of trees) via a list in the district plan and notated on the planning maps. No trees can be protected under a general approach such as by age or size; and regardless of whether the sites where those trees are located are also clad in bush or other vegetation.
657. Accordingly, although the submissions by Tainui o Tainui, Jade Hyslop, Adrian Morton, Karen White, Linda Silvester, Whaingaroa Environmental Defence Inc. Society and John Lawson have relevance in managing the overall amenity of Raglan, the direction set in the Act does not intend the implementation of blanket controls over the management of trees in general. This was expressed most recently in caselaw concerning tree removal.²⁰⁰ The Court stated that "*bound by the laws which are passed by parliament which saw an amendment to the RMA s76(4A) and (4B) which removed the ability for a council to have general blanket protection of trees within urban areas and instead required that particular and specific protections be put in place in a District Plan*".²⁰¹
658. Therefore, to ensure that the district plan accords with the directions of the legislation, as with the Maehl v Lenihan case (see Footnote 129 below), WDC cannot apply provisions that result in the blanket protection of trees.
659. The following 20 submission points from Waikato District Council all seek the deletion of listings from Schedule 30.2: Waikato District Council [697.428], [697.429], [697.430], [697.431], [697.432], [697.433], [697.434], [697.435], [697.436], [697.437], [697.438], [697.439], [697.440], [697.441], [697.442], [697.443], [697.444], [697.445], [697.446], and [697.447] seek the deletion of the following trees from Schedule 30.2 because they have either already been removed, are a duplication in the schedule, or were included by error when the final draft district plan was being prepared prior to notification:

ID#	Description	WDC reason for deleting	WDC submission #

²⁰⁰ NZEnvC-2019-058-Maehl-v-Lenihan

<https://www.environmentcourt.govt.nz/assets/Documents/Publications/2019-NZEnvC-058-Maehl-v-Lenihan.pdf>

²⁰¹ NZEnvC-2019-058-Maehl-v-Lenihan, paragraphs 12, 13 and 14, page 4.; and paragraphs 17, 18 and 19, page 5.

9	Oak Tree	located on a paper road and such could be an impediment to forming the road in the future	[697.428]
13	Oak Tree	Tree has been removed	[697.429]
28	Norfolk pine	This is a duplication of entry on the Schedule. Tree, one of a pair is already scheduled in ID#26 and ID#27	[697.430]
41	Associated	This listing is now redundant. The original site has been subdivided and the individual trees are not listed on the new lots.	[697.431]
46	Pohutukawa	This is a duplication of the listing (ID#45)	[697.432]
47	Gum, Redwood, Blackwood, Chestnut & Poplar	This listing was an editorial error; trees do not meet the STEM criteria for scheduling.	[697.433]
60	Pear	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling.	[697.434]
61	Bull Bay Magnolia	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling.	[697.435]
66	Rimu	The listing was an editorial error.	[697.436]
80	Lime	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling.	[697.437]
87	Dogwood	The listing was an editorial error.	[697.438]
95	Eucalyptus	Tree has been removed	[697.439]
110	Indian Cedar	Tree has died.	[697.440]
127	White Poplar	Tree has been removed	[697.441]
138	Cedar	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling	[697.442]
139	Magnolia	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling	[697.443]
143	White-flowered Puriri	This is a duplication of the listing (ID#144)	[697.444]
149	Rhododendron 'Sir Robert Peel'	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling.	[697.445]
150	Horsetail or sheoak	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling	[697.446]
154	English Oak	The listing was an editorial error; the tree does not meet the STEM criteria for scheduling	[697.447]

660. WDC's arborists, Mr Gordon and Mr Sirl have confirmed that the descriptions set out above are correct, and recommend that these listings be removed from the schedule.

9.2.4 Recommendations

661. For the reasons outlined above, I recommend that the Hearings Panel:

Accept Waikato District Council [697.427] - ID# 7

Reject Trena Marshall [233.1], Whaingaroa Environmental Defence Inc. Society [FS/276.270] - Puriri tree located at 124 Greenslade Road, Raglan.

Accept Dee Bond [946.4] - Kauri at 10 Liverpool Street, Tuakau

Reject Mercer Residents and Ratepayers Committee [367.51] - Kauri tree at 57 Koheroa Road, Mercer

Accept Waikato District Council [697.448] - Rhododendron 'Sir Robert Peel' at 32 Main Road, Te Kauwhata

Accept Waikato District Council [697.449] - Blue Atlas Cedar at 202 Matangi Road, Matangi

Accept Waikato District Council [697.450] - Oak tree at 5 Riverglade Drive, Tamahere

Reject Jade Hyslop [435.5], Adrian Morton [499.9], [499.10], [499.11], [499.12], [499.13], [499.21], [499.22], [499.23] and [499.24], Karen White [757.9], Whaingaroa Environmental Defence Inc. Society [780.40], Linda Silvester [830.7], John Lawson [825.40], Tainui o Tainui [942.63], Pareoranga Te Kata [FS/1035.99] and Whaingaroa Environmental Defence Inc. Society [FS/1276.41], [FS/1276.42], [FS/1276.43], [FS/1276.44], [FS/1276.45], [FS/1276.46], [FS/1276.47], [FS/1276.48], [FS/1276.49], [FS/1276.50], [FS/1276.51] and [FS/1276.53] - addition of trees in Raglan.

Accept in Part Federated Farmers of New Zealand [FS/342.128]

Accept Waikato District Council [697.428], [697.429], [697.430], [697.431], [697.432], [697.433], [697.434], [697.435], [697.436], [697.437], [697.438], [697.439], [697.440], [697.441], [697.442], [697.443], [697.444], [697.445], [697.446], and [697.447] - deletion of identified listings from Schedule 30.2.

9.2.5 Recommended amendments

662. The following amendments are recommended:

Schedule 30.2 Notable Trees

New ID	Description	Address
1	Totara	134 Helenslee Road, Pokeno
2	Totara	134 Helenslee Road, Pokeno
3	Totara	156 Helenslee Road, Pokeno
4	Totara	156 Helenslee Road, Pokeno
5	Totara	156 Helenslee Road, Pokeno
6	Kahikatea and totara	174 Helenslee Road, Pokeno
7	10 Kahikatea	Munro Road 19 Helenslee Road, Pokeno ²⁰²
8	Kahikatea	62 Pokeno Road, Pokeno
9	Oak	High Street, Pokeno ²⁰³
10	Oaks	Market Square, Great South Road, Pokeno
11	Kauri	10 Selby Street, Pokeno

²⁰² [697.427]

²⁰³ [697.428]

12	Norfolk pines	116 Hitchen Road, Pokeno
13	Oak	26 Gateway Park Drive, Pokeno ²⁰⁴
14	Taraire	201 Hitchen Road, Pokeno
15	Native bush gully	201 Hitchen Road, Pokeno
16	Native bush gully	201 Hitchen Road, Pokeno
17	Native trees	201 Hitchen Road, Pokeno
18	Native bush gully	201 Hitchen Road, Pokeno
19	Native bush gully	201 Hitchen Road, Pokeno
20	Taraire	201 Hitchen Road, Pokeno
21	Kauri	8 Liverpool Street, Taukau
22	Kauri	8 Elizabeth Street, Tuakau
23	Norfolk pine and liquidambar trees	733 Waiuku-Otaua Road, Otaua
24	English oak	1058 Island Block Road, Island Block
25	Totara	1058 Island Block Road, Island Block
26	Norfolk pine	66 Huarua Way, Otaua
27	Norfolk pine	66 Huarua Way, Otaua
28	Norfolk pine	66 Huarua Way, Otaua ²⁰⁵
29	Norfolk pine	Forestry Road, RD Maiora
30	Oak	39 Kelly road, Waerenga
31	Red flowering gum	39 Waerenga Road
32	Evergreen magnolia, rhododendron, waratah	1 Baird Avenue, Te Kauwhata
33	Coastal redwood	57 Te Kauwhata Road, Te Kauwhata
34	Willow oak	55 Te Kauwhata Road, Te Kauwhata
35	Kashmir cypress	61 Te Kauwhata Road, Te Kauwhata
36	Horizontal elm	59 Te Kauwhata Road, Te Kauwhata
37	Norfolk pine	65 Te Kauwhata Road, Te Kauwhata
38	Canary oak	63 Te Kauwhata Road, Te Kauwhata
39	Giant redwood	69 Te Kauwhata Road, Te Kauwhata
40	Deodar	67 Te Kauwhata Road, Te Kauwhata
41	Assorted	75 Te Kauwhata Road, Te Kauwhata ²⁰⁶
42	Radiata pine	442 Hetherington Road, Huntly
43	Pohutukawa	1425 Hetherington Road, Ruawaro
44	Norfolk Island pine	127 Russell Road, Huntly

²⁰⁴ [697.429]

²⁰⁵ [697.430]

²⁰⁶ [697.431]

45	Pohutukawa	270 Hetherington Road, Rotongaro
46	Pohutakawa	270 Hetherington Road, Rotongaro ²⁰⁷
47	Gum, redwood, blackwood, chestnut and poplar	Rosser Street, Huntly ²⁰⁸
48	Macrocarpa	17 Russell Road, Huntly
49	Tulip tree	22 Harlock Place, Huntly
50	Liquidambar, pin oaks, tulip tree	26 Harlock Place, Huntly
51	London plane	210 Great South Road, Huntly
52	Pin oaks	26 Harlock Place, Huntly
53	Tulip tree	12 Harlock Place, Huntly
54	Redwood	Taihua Road, Huntly
55	10 London planes, 6 English oaks, 1 liquidambar	Taihua Road, Huntly
56	London plane (row)	Taihua Road, Huntly
57	English oak	Tainui Bridge Reserve
58	Kahikatea	Rayner Road, Huntly
59	Kahikatea	343 Tregoweth Lane, Huntly
60	Pear	759 Hakarimata Road, Ngaruawahia ²⁰⁹
61	Bull Bay magnolia	759 Hakarimata Road, Ngaruawahia ²¹⁰
62	Italian cypress	732 Hakarimata Road, Huntly
63	Tricolour beech	Great South Road, Taupiri
64	Eucalyptus	629 Hakarimata Road
65	1 English elm, 1 eucalyptus	15 Murphy Lane, Taupiri
66	Rimu (female)	22 Wadham Road, Ngaruawahia ²¹¹
67	Rimu	161 Hakarimata Road, Ngaruawahia
68	2 tulip poplars, 3 black walnuts, 1 Kashmir cypress, 2 American ash	42 Whitikahu Road, Gordonton
69	Sawara cypress	42 Whitikahu Road, Gordonton
70	Black walnut	42 Whitikahu Road, Gordonton
71	Brown barrel gum	42 Whitikahu Road, Gordonton
72	2 American ash	42 Whitikahu Road, Gordonton
73	London plane (main carpark)	42 Whitikahu Road, Gordonton
74	Tulip tree	42 Whitikahu Road, Gordonton
75	London plane (3-stemmed)	42 Whitikahu Road, Gordonton

²⁰⁷ [697.432]

²⁰⁸ [697.433]

²⁰⁹ [697.434]

²¹⁰ [697.435]

²¹¹ [697.436]

76	London plane	Lower Waikato Esplanade, Ngaruawahia
77	London plane	Lower Waikato Esplanade, Ngaruawahia
78	European oak	Lower Waikato Esplanade, Ngaruawahia
79	London plane	Lower Waikato Esplanade, Ngaruawahia
80	Lime	8 Sampson Street, Road Berm ²¹²
81	London plane	Lower Waikato Esplanade, Ngaruawahia
82	Various European trees	Broadway Street, Ngaruawahia
83	London plane	Lower Waikato Esplanade, Ngaruawahia
84	Copper beech	12 Market Road, Ngaruawahia
85	London plane	Market Road, Ngaruawahia
86	English oak	Market Road, Ngaruawahia
87	Dogwood	Market Street, Ngaruawahia ²¹³
88	London plane	Lower Waikato Esplanade, Ngaruawahia
89	Evergreen oak	Road Reserve, Newcastle Street
90	Cook's pine	1 Jordan Street, Ngaruawahia
91	Beech	Jordan Street, Ngaruawahia
92	English oak	Galileo Street, Ngaruawahia
93	2 rimu and 1 totara	37A Waipa Esplanade, Ngaruawahia
94	Totara	Central road reserve
95	Eucalyptus	Galileo Street, Ngaruawahia ²¹⁴
96	Redwood (grove)	148 Waingaro Road, Ngaruawahia
97	English oak	1020B Gordonton Road, Gordonton
98	English oak	1024 Gordonton Road, Gordonton
99	Holm oak	1020B Gordonton Road, Gordonton
100	English oak	1020B Gordonton Road, Gordonton
101	Red ash	11A Nuzum Road, Ngaruawahia
102	2 linden, 2 English oaks	12A Park Road, Horotiu
103	Lime tree	12A Park Road, Horotiu
104	Oak	357 Gordonton Road, Gordonton
105	Holm oak	44 Gordonton Road, Chartwell, Hamilton
106	Lombardy poplar	159 Hooper Road, Eureka
107	English oak	576 Scotsman Valley Road, Tauwhare
108	Eucalyptus regnans	455 State Highway 26, Newstead
109	2 Bull Bay magnolia, 1 canary palm	455 State Highway 26, Newstead

²¹² [697.437]

²¹³ [697.438]

²¹⁴ [697.439]

110	Indian cedar	455 State Highway 26, Newstead ²¹⁵
111	1500m line of English oaks	879 State Highway 26, Newstead
112	English oak	671 State Highway 26, Newstead
113	Pohutukawa	81 Wallis Street, Raglan
114	7 Kermadec and native pohutukawa trees and 1 Moreton Bay fig	Cliff edge, along Puriri Street to the public toilets
115	Mixture of Kermadec and native Pohutukawa trees and 1 Holm oak	Opposite 15 Cliff Street to James Street
116	2 holm oak, 14 pohutukawa (Kermadec and native)	Opposite James Street junction along the cliff to 53 Cliff street
117	8-10 Pohutukawa, 1 flowering gum, 1 holm oak	Cliff Road, opposite 15 Cliff Road
118	Norfolk Island pine, 5 pohutukawa and evergreen oak	Cliff Street (Bow Street end)
119	Pohutukawa	On the corner of Wallace and Bow Streets, Raglan
120	Norfolk Island pine	Bow Street, Raglan
121	2 pohutukawa, 1 karaka	Lower end of Bow Street, Raglan
122	Phoenix palm	Bow Street, Raglan
123	Pohutukawa	Bow Street, Raglan
124	Phoenix palm	Bow Street, Raglan
125	Phoenix palm	Bow Street, Raglan
126	Phoenix palm	Bow Street, Raglan
127	White poplar	61 Marine Parade, Raglan ²¹⁶
128	Kauri	25 Smith Street, Raglan
129	Pohutukawa (500,000 th tree)	316 Wainui Road, Raglan
130	Pohutukawa (100,000 th tree)	316 Wainui Road, Raglan
131	Evergreen magnolia	200 Matangi Road, Tamahere
132	Deodar cedar	200 Matangi Road, Tamahere
133	London plane	200 Matangi Road, Tamahere
134	Deodar cedar	200 Matangi Road, Tamahere
135	Douglas fir	200 Matangi Road, Tamahere
136	Holm oak	200 Matangi Road, Tamahere
137	Grove of redwood	524E State Highway 1, Tamahere
138	Cedar	8 Titoki Drive, Tamahere ²¹⁷

²¹⁵ [697.440]

²¹⁶ [697.441]

²¹⁷ [697.442]

139	Magnolia	8 Titoki Drive, Tamahere ²¹⁸
140	5 English oaks, 1 Bull Bay Magnolia, 1 Indian cedar	8 Titoki Drive, Tamahere
141	2 oak trees	10 Titoki Drive, Tamahere
142	English oak	Outside no.13 Riverglade Drive, Tamahere
143	White-flowered puriri	140 Whaanga Road, Raglan ²¹⁹
144	White-flowered puriri	166 Whaanga Road, Raglan
145	European oak	39 Koppens Road, Tamahere
146	Rimu	Near junction with Cogswell and SH23
147	London plane	25 Koppens Road, Tamahere
148	Elm	10 Ryvington Lane, Tamahere
149	Rhododendron 'Sir Robert Peel'	14 Tamahere Drive, Tamahere ²²⁰
150	Horsetail or sheoak	92 Tamahere Drive, Tamahere ²²¹
151	London plane	Lee Martin Road, Tamahere
152	London plane	Lee Martin Road, Tamahere
153	Grove of Trees	134A Tamahere Drive, Tamahere
154	English oak	47B Pencarrow Road, Tamahere ²²²
155	English oak	69C Pencarrow Road, Tamahere
156	Walnut	430 Pickering Road, Tamahere
157	Oak tree	430 Pickering Road, Tamahere
158	Redwood	430 Pickering Road, Tamahere
159	Oak	353 Pencarrow Road, Tamahere
160	Blue gum	364 Racecourse Road, Tamahere
<u>161</u>	<u>Kauri trees</u>	<u>10 Liverpool Street, Taukau</u>
<u>162</u>	<u>Rhododendron 'Sir Robert Peel' tree</u>	<u>32 Main Road, Te Kauwhata</u>
<u>163</u>	<u>Blue Atlas Cedar tree</u>	<u>202 Matangi Road, Matangi</u>
<u>164</u>	<u>Oak tree</u>	<u>5 Riverglade Drive, Tamahere</u>

9.2.6 Section 32AA evaluation

Other reasonably-practicable options

663. The amendments to Schedule 30.2 are considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

²¹⁸ [697.443]

²¹⁹ [697.444]

²²⁰ [697.445]

²²¹ [697.446]

²²² [697.447]

Effectiveness and efficiency

664. The recommended amendments to Schedule 30.2 improve the effectiveness and efficiency of the planning provisions and provide more accurate guidance to plan users around the scheduled notable trees.

Costs and benefits

665. There will be costs imposed on the landowners of trees that have been recommended to be scheduled. The benefits are clearer guidance to plan users.

Risk of acting or not acting

666. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to Schedule 30.2.

Decision about most appropriate option

667. The amendments to Schedule 30.2 Notable Trees are considered to assist the plan's ability to appropriately achieve the purpose of the RMA.

10 Mapping

10.1.1 Introduction

668. The Planning Maps are the visual tool that spatially identifies the planning framework of the district. They are complex, containing a vast amount of information that correlates with both plan policy and planning rules. It is important that the planning maps align with the direction set by the district plan. The correct location of the notations to identify heritage items and notable trees is important to ensure the management of these items, and to avoid confusion in the administration of the plan.

10.1.2 Submissions

669. The following submissions specifically seek amendments to the planning maps that relate to corrections and omissions:

Submission point	Submitter	Summary of submission
37.1	Graeme Ward	Amend the location of Heritage Item 174 Briarly House shown on maps at 8 Titoki Drive to 10 Titoki Drive
697.336	Waikato District Council	Amend notable tree notations on the planning maps to identify correct location on property and make corrections to the corresponding Schedule 30.2; AND Update any properties where notable trees are to be removed from the district planning maps.
FS1387.534	Mercury NZ Limited	Oppose
697.337	Waikato District Council	Amend historic heritage item notations on planning maps to identify correct property and location and make corrections to the

		corresponding Schedule 30.1 Historic Heritage Items.
FS1387.535	Mercury NZ Limited	Oppose

10.1.3 Analysis

670. Graeme Ward [37.1] seeks the amendment of Planning Map Matangi 27.4 to correctly locate Heritage Item 174 – ‘Briarly, former Tinne/Bourke farmhouse’. As notified, the heritage item’s location, as notated on the planning map, is 10 Titoki Drive, Tauwhare. However, Schedule 30.1 states that Heritage Item ID# 174 is located at 8 Titoki Drive. Dr McEwan has confirmed that the correct location is 8 Titoki Drive.
671. Therefore, I recommend that the planning map notation identifying the location of Heritage Item ID# 174 be relocated from number 10 Titoki Drive to 8 Titoki Drive on Planning Map 27.4; and that the submission by Graeme Ward be accepted.
672. The two submissions from Waikato District Council [697.336] and [697.337] complement the specific changes that they have sought to both Schedule 30.1 Heritage Items and Schedule 30.2 Notable Trees to ensure that there is alignment with mapping notations and details in the schedules. A number of recommendations automatically have the consequence of amending the planning maps to ensure accurate information and good plan administration.
673. Mr Gordon and Mr Sirl have reviewed the listings contained in Schedule 30.2 Notable Trees and have identified listings, other than those specifically submitted on by WDC, that should also be deleted from the schedule because the tree(s) have already been removed, there are duplications, incorrect locations or the trees were listed by error. I recommend the following amendments:

New ID	Description	Address
14	Taraire	201 Hitchen Road, Pokeno
23	Norfolk pine and liquidambar trees	733 Waiuku-Otaua Road, Otaua
25	<u>4 Totara trees</u>	1058 Island Block Road, Island Block
32	Evergreen magnolia, rhododendron, waratah	1 Baird Avenue, Te Kauwhata
50	Liquidambar , 2 pin oaks <u>trees</u> , tulip tree	26 Harlock Place, Huntly
51	London plane	210 Great South Road, Huntly
52	Pin oaks	26 Harlock Place, Huntly
55	10 London planes <u>trees</u> , 6 English oaks <u>trees</u> , 1 liquidambar	Taihua Road, Huntly
56	London plane (row)	Taihua Road, Huntly
65	1 English elm, 1 eucalyptus	15 Murphy Lane, Taupiri
85	London plane	Market Road, Ngaruawahia
92	<u>5 English oak trees</u>	Galileo Street, Ngaruawahia

93	2 rimu <u>trees</u> and 1 totara	37A Waipa Esplanade, Ngaruawahia
94	4 Totara <u>trees</u>	Central road reserve
98	13 English oak <u>trees</u>	1024 Gordonton Road, Gordonton
99	2 Holm oak <u>trees</u>	1020B Gordonton Road, Gordonton
101	2 Red ash <u>trees</u>	11A Nuzum Road, Ngaruawahia
104	Oak	357 319 Gordonton Road, Gordonton
107	9 English oak <u>trees</u>	576 Scotsman Valley Road, Tauwhare
114	7 Kermadec and native pohutukawa trees and 1 Moreton Bay fig	Cliff edge, along Puriri Street to the public toilets
117	8-10 3 Pohutukawa <u>trees</u> , 1 flowering gum, 1 holm oak	Cliff Road, opposite 15 Cliff Road
118	Norfolk Island pine, 5 4 pohutukawa <u>trees</u> and evergreen oak	Cliff Street (Bow Street end)
120	5 Norfolk Island pine <u>trees</u>	Bow Street, Raglan
123	2 Pohutukawa <u>trees</u>	Bow Street, (Wi Neera), Raglan
124	4 Phoenix palm <u>trees</u>	Bow Street, (Wainui to Wi Neera) Raglan
125	5 Phoenix palm <u>trees</u>	Bow Street, (Wainui to 35 Bow Street) Raglan
126	4 Phoenix palm <u>trees</u>	41 & 43 Bow Street, Raglan
128	3 Kauri <u>trees</u>	25 Smith Street, Raglan
132	Deodar cedar	200 Matangi Road, Tamahere
133	London plane, <u>Deodar cedar</u> , <u>Douglas Fir</u> and <u>Holm Oak</u>	200 Matangi Road, Tamahere
134	Deodar cedar	200 Matangi Road, Tamahere
135	Douglas fir	200 Matangi Road, Tamahere
136	Holm oak	200 Matangi Road, Tamahere
137	Grove of redwood	524E State Highway 1, Tamahere
140	5 English oaks, 1 Bull Bay Magnolia, 1 Indian cedar 2 Oak <u>trees</u>	8 Titoki Drive, Tamahere
141	2 3 Oak trees	10 Titoki Drive, Tamahere
142	2 English oak <u>trees</u>	Outside no.5 and 13 Riverglade Drive, Tamahere
144	White flowered puriri	166 Whaanga Road, Raglan
145	<u>European English oak</u>	39 Koppens Road, Tamahere
148	2 Elm <u>trees</u>	10 Ryvington Lane, Tamahere
152	4 London plane <u>trees</u>	Lee Martin Road, Tamahere
153	Grove of Trees	134A Tamahere Drive, Tamahere
159	9 Oak <u>trees</u>	353 Pencarrow Road, Tamahere
160	Blue gum	<u>1435 State Highway 1/364 Racecourse Road</u> ,

		Tamahere
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674. Due to the complexity of the planning maps, and the staff resources required to undertake widespread amendments, I request that the Hearings Panel accept my recommendation to accept these submission points without a set of revised planning maps at this time. I seek this exemption because matters relating to historic heritage and notable trees have district-wide coverage and would involve numerous planning maps. I propose that the planning map amendments relating to historic heritage and notable trees be shown on the final draft set of maps following the completion of Stage 1 hearings.

10.1.4 Recommendations

675. For the reasons given above, I recommend that the Hearings Panel:

Accept Graeme Ward [37.1] - amend location of Heritage Item ID# 174 on Planning Map 27.4 Matangi

Accept Waikato District Council [697.336] and [697.337] - Schedule 30.2 Notable Trees

Reject Mercury NZ Limited [FS/387.534] and [FS/387.535].

10.1.5 Recommended amendments

676. The following amendments are recommended:

Planning Maps are amended to reflect the recommended changes to Schedule 30.1 Heritage Items and Schedule 30.2 Notable Trees.²²³

Removal of the following notable trees from the planning maps, and making corresponding corrections to Schedule 30.2.²²⁴

Consequential renumbering of the trees in both the Planning Maps and Schedule 30.2.

New ID	Description	Address
14	Taraire	201 Hitchen Road, Pokeno
23	Norfolk pine and liquidambar trees	733 Waiuku-Otaua Road, Otaua
25	4 Totara trees	1058 Island Block Road, Island Block
32	Evergreen magnolia, rhododendron, waratah	1 Baird Avenue, Te Kauwhata
50	Liquidambar , 2 pin oaks trees , tulip tree	26 Harlock Place, Huntly
51	London plane	210 Great South Road, Huntly
52	Pin oaks	26 Harlock Place, Huntly
55	10 London planes trees , 6 English oaks trees , 1 liquidambar	Taihua Road, Huntly
56	London plane (row)	Taihua Road, Huntly
65	1 English elm, 1 eucalyptus	15 Murphy Lane, Taupiri

²²³ [37.1], [559.336] and [559.337]

²²⁴ [559.336] and [559.337]

85	London plane	Market Road, Ngaruawahia
92	5 English oak <u>trees</u>	Galileo Street, Ngaruawahia
93	2 rimu <u>trees</u> and 1 totara	37A Waipa Esplanade, Ngaruawahia
94	4 Totara <u>trees</u>	Central road reserve
98	13 English oak <u>trees</u>	1024 Gordonton Road, Gordonton
99	2 Holm oak <u>trees</u>	1020B Gordonton Road, Gordonton
101	2 Red ash <u>trees</u>	11A Nuzum Road, Ngaruawahia
104	Oak	357 319 Gordonton Road, Gordonton
107	9 English oak <u>trees</u>	576 Scotsman Valley Road, Tauwhare
114	7 Kermadec and native pohutukawa trees and 1 Moreton Bay fig	Cliff edge, along Puriri Street to the public toilets
117	8-10 3 Pohutukawa <u>trees</u> , 1 flowering gum, 1 holm oak	Cliff Road, opposite 15 Cliff Road
118	Norfolk Island pine, 5 4 pohutukawa <u>trees</u> and evergreen oak	Cliff Street (Bow Street end)
120	5 Norfolk Island pine <u>trees</u>	Bow Street, Raglan
123	2 Pohutukawa <u>trees</u>	Bow Street, (Wi Neera), Raglan
124	4 Phoenix palm <u>trees</u>	Bow Street, (Wainui to Wi Neera) Raglan
125	5 Phoenix palm <u>trees</u>	Bow Street, (Wainui to 35 Bow Street) Raglan
126	4 Phoenix palm <u>trees</u>	41 & 43 Bow Street, Raglan
128	3 Kauri <u>trees</u>	25 Smith Street, Raglan
132	Deodar cedar	200 Matangi Road, Tamahere
133	London plane, Deodar cedar, Douglas Fir and Holm Oak	200 Matangi Road, Tamahere
134	Deodar cedar	200 Matangi Road, Tamahere
135	Douglas fir	200 Matangi Road, Tamahere
136	Holm oak	200 Matangi Road, Tamahere
137	Grove of redwood	524E State Highway 1, Tamahere
140	5 English oaks, 1 Bull Bay Magnolia, 1 Indian cedar 2 Oak <u>trees</u>	8 Titoki Drive, Tamahere
141	2 3 Oak trees	10 Titoki Drive, Tamahere
142	2 English oak <u>trees</u>	Outside no. 5 and 13 Riverglade Drive, Tamahere
144	White-flowered puriri	166 Whaanga Road, Raglan
145	European English oak	39 Koppens Road, Tamahere
148	2 Elm <u>trees</u>	10 Ryvington Lane, Tamahere
152	4 London plane <u>trees</u>	Lee Martin Road, Tamahere

153	Grove of Trees	134A Tamahere Drive, Tamahere
159	9 Oak trees	353 Pencarrow Road, Tamahere
160	Blue gum	1435 State Highway 1 /364 Racecourse Road, Tamahere

10.1.6 Section 32AA evaluation

Other reasonably-practicable options

677. The amendment is considered to be a more appropriate option in achieving the purpose of the RMA than the notified version.

Effectiveness and efficiency

678. The recommended amendments to the planning maps improve the effectiveness and efficiency of the planning provisions and provide more accurate guidance to plan users regarding the location of both scheduled heritage items and notable trees.

Costs and benefits

679. There are no additional costs, therefore costs are likely to be the same. The benefits are clearer guidance to plan users.

Risk of acting or not acting

680. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendments to the planning maps.

Decision about most appropriate option

681. The amendments to the planning maps are considered to assist in the plan's ability to appropriately achieve the purpose of the RMA.

11 Conclusion

682. This report provides an assessment of submissions received in relation the policy framework, rules and methods of scheduling historic heritage and notable trees. The protection of historic heritage and notable trees is a district-wide matter, therefore there is the need to ensure consistency across the rule provisions in each zone chapter. The primary amendments that I have recommended relate to the following:
683. The reconfiguration of the information contained in Schedules 30.1 and 30.2 to correct identified errors and omissions of information; and the addition of information to ensure best practice in the management of historic heritage.
- The identification and referencing of the individual Heritage Reports for each scheduled heritage item to encourage the holistic management of items' heritage values.
 - Reconfirming the linkages between the policy framework in the PDP for the protection of historic heritage and the provisions set out in each zone to achieve that framework.
 - In conclusion, I consider that the submissions addressed in this s.42a report should be accepted, accepted in part or rejected, as set out in Appendix 1 below, for the reasons set out in Sections 4 to 10 of this report.
684. Appendix 2 below, contains recommended amendments to the plan chapters:

- Chapter 7: Historic Heritage
- Chapter 12: How to use and interpret the rules
- Chapter 13: Definitions
- Chapter 16: Residential Zone:
- Chapter 17: Business Zone:
- Chapter 18: Business Town Centre Zone
- Chapter 20: Industrial Zone
- Chapter 21: Industrial Zone Heavy
- Chapter 22: Rural Zone
- Chapter 23: Country Living Zone
- Chapter 24: Village Zone
- Chapter 25: Reserve Zone
- Appendix 3: Design Guidelines
- Schedule 30.1 Historic Heritage Items
- Schedule 30.2 Notable Trees
- Planning Maps

685. Appendix 3 contains the details of the pre-hearing meetings.

Addendum:

The matter relating to submission point 535.85 where HCC seeks the scheduling of the recently relocated St Paul's Presbyterian Church (formerly from London Street, Hamilton) assessed by Betty Connolly, Senior Planner, Waikato District Council.

Appendix 1: Table of submission points

Appendix 2: Recommended amendments

Appendix 3: Technical reports

Appendix 4: Pre-hearing meetings

Any Clause 8AA meetings

Records of sites visits / minutes of discussions with submitters etc