

BEFORE THE HEARING COMMISSIONER

**IN THE
MATTER OF**

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

AND

**IN THE
MATTER OF**

**Waikato District Council Proposed
District Plan:
Hearing 2-Plan Structure and All
of Plan.**

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

1. INTRODUCTION

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

2. SCOPE OF EVIDENCE

- 2.1 HNZPT is New Zealand's lead heritage agency and operates under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). Included as the purpose of the HNZPTA is: *"To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand."* HNZPT meets this purpose in a number of ways, including advocacy and active involvement in Resource Management Act 1991 (RMA) processes for heritage. HNZPT made 3 submission points (599.1, 599.2, and 599.3) related to the structure of the Waikato District Council Proposed District Plan (the Plan), and 2 further submission points (FS1323.170 and FS1323.176) relating to Tangata Whenua matters. With regard to submission point 559.1, I accept the reporting planner's recommendation that under the National Planning Standards there is scope to not provide a separate Chapter relating to Tangata Whenua or Historic Heritage matters at this time and will not discuss this submission point further. With regard to the further submission points (FS1323.170 and FS1323.176) I concur with the recommendations of the reporting planner and do not discuss these points further.

2.2 In preparing this evidence I have read the section 42A report for the Council.

3. LEGISLATIVE FRAMEWORK

3.1 The purpose of the RMA is to “*promote the sustainable management of natural and physical resources*”. Section 5 of the Act states:

“In this Act, sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety.”

3.2 Section 6(f) of the RMA requires that any proposal “*recognise and provide for... the protection of historic heritage from inappropriate subdivision use and development*”.

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

3.4 The RMA defines historic heritage as:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

(i) archaeological;

(ii) architectural;

(iii) cultural;

(iv) historic;

(v) scientific;

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with the natural and physical resources

4. HNZPT SUBMISSION POINTS

- 4.1 In submission points 559.2 and 559.3 HNZPT sought separate chapters for historic Heritage and Tangata Whenua matters however also included as an alternative relief the use of cross referencing in the Plan as another method of improving the usability of the Plan with regard Historic Heritage and Tangata Whenua matters. HNZPT also suggested that hyper-links could be used as a method of cross referencing. The reporting planner has recommended, in response to these and other similar submission points, that a degree of appropriate written cross referencing could occur and has provided an example of basic cross referencing at pg. 41/42 of the S42A report as part of the recommended approach.

5. HNZPT RESPONSE TO RECOMMENDATIONS OF THE PLANNERS REPORT

5.1 Recommended cross referencing for All of Plan

- (a) The reporting planner has provided an example of basic cross referencing, to be included into the instruction section at the beginning of the Zone Chapters. The cross referencing will advise that there are specific Objectives and Policies for the Zone citing the chapter reference and also state that other objectives and policies may apply. The reporting planner has justified the brevity of this approach by advising that long cross reference lists potentially contribute little to plan usability and efficiency.
- (b) As background to making this response, in addition to reviewing the District Plan chapters I have also reviewed the "Properties Rules Search" function that is available on the Councils Proposed Plan web page, and also the "Rules link" that is available with the planning maps for the Operative Plan as other potential examples or locations to acquire at one time the relevant objective, policy, and rule suite that may apply to an activity or property. These functions appear to provide only the Plan rules and in many instances only some rules. Importantly they do not seem, in the examples that I looked at in the "Properties Rules Search" for the proposed plan, supply Historic Heritage or Maori Sites or Areas of Significance rules. While it is advised that other rules may also apply I would consider, given their immediate application under the RMA, that they should be included in this function. While the HNZPT submission had suggested the use of hyperlinks as the

Plan does not appear to be at that stage of development, I consider that cross referencing should be pursued through written additions to the Plan.

- (c) While I generally support the recommendation for the use of cross referencing, the HNZPT submission had anticipated a more specific/detailed method that would provide a useful navigation aid around the Plan for Historic Heritage and Tangata Whenua matters. The reporting planner has observed the extensive range of Objectives and Policies within the Plan¹, which I consider requires a commensurate cross-referencing response for the content of the Plan to be effectively used and considered at the time of preparing and processing applications.
- (d) Any cross referencing system would need to specifically include reference to the relevant overview objectives and policies, which from a HNZPT perspective would include at a minimum references to Chapter 2-Tangata Whenua and Chapter 7-Historic Heritage found in the first part of the Plan.
- (e) I would make an additional comment that there does not appear to be any instruction regarding the applicability of the overview type objectives and policies within the Plan, in the same way that the Plan provides instruction regarding the application of rules. For example are the Tangata Whenua objectives and policies found in Chapter 2 to be applied as part of the consideration of every application, in which case this should also be clear in any cross referencing system.
- (f) Therefore I consider that in addition to the amendment recommended by the reporting planner for the cross referencing in the Zone Chapters relating to the consideration of objectives and policies located in other chapters, a similar amendment is required within the Objectives and Policies chapters advising the location of the rules that give effect to the Objectives and Policies. For the objective and policy chapters that cover more than one zone a slightly different wording will be required.
- (g) I think that this would enhance the recommended approach, providing sufficient guidance around the Plan and ensure consideration of the relevant objectives, policies and rules at the time of developing or processing an application.
- (h) Therefore I seek the following further amendments (underline):

“(3) Objectives and Policies that relate to the (insert Zone as relevant) Zone are contained in Chapter (insert zone chapter as relevant). Other Objectives

¹ Proposed Waikato District Plan, Hearings 2: Plan Structure, All of Plan, Section 42A Hearings Report, pg. 41, para 120.

and Policies, from Chapters 1-11 also apply in the zone, dependant on the specific activity occurring. Some objectives and policies, such as Tanqata Whenua (Chapter 2) and Historic Heritage (Chapter 7) apply across all zones.

- (i) I also seek the following cross referencing amendment (underline) to be applied to all of the Plan Objective and Policy chapters, to be located just under the Chapter heading with wording revised as relevant to each chapter, for example.

Chapter 7: Historic Heritage

"The rules that give effect to the Objectives and Policies of this chapter are located within in the Zone chapters under the headings: Heritage Items, Title Boundaries, Subdivision within identified areas and Subdivision of land containing heritage items."

6. CONCLUSIONS

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



Carolyn McAlley

Senior Planner,

Heritage New Zealand Pouhere Taonga,

26 Wharf Street

Tauranga.

Email: cmcalley@heritage.org.nz

ph.: 07 577 4535