

**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 20-Sites and Areas of  
Significance to Māori.**

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

**3<sup>rd</sup> August 2020**

## 1. Introduction

- 1.1 My name is Carolyn McAlley. I am the author of the Heritage New Zealand Pouhere Taonga (HNZPT) response to the S42A report for this topic and I make a response today to the Council rebuttal report.

## 2. Confirmation of approach in Rebuttal Report

- 2.1 I support the affirmative recommendation made by the reporting planner with regard the additions sought to the assessment criteria for the restricted discretionary activity of earthworks through HNZPT submission point 559.239.

## 3. Matters Outstanding

### Assessment of Earthworks

- 3.1 In response to the planners discussion at Section 5 of the Rebuttal Report entitled "*5. Earthworks as a permitted activity*" and "*6. Earthworks and Wahi Tapu*" I make the following response. HNZPT was a further submitter to the component of the Riverdale Group submissions seeking a permitted level of earthworks. HNZPT had also sought in their primary submissions, that for the purposes of assessing activities on cultural sites, that "*ancillary rural earthworks/rural ancillary earthworks*" were included as part of the earthworks assessment. Part of the reason at the time of submission was that the meaning of "*ancillary rural earthworks/rural ancillary earthworks*" was unclear, as was the activity status that these activities were assigned. Also potentially these activities included new works including forestry.
- 3.2 In that regard I have reviewed the material on the Council website under the Definitions hearing topic, in particular Appendix 2 to the s42A report and Appendix 3 to the Council rebuttal report. These identify the resolution of earthworks topic as a whole is still to be concluded, in the context of the National Planning Standards "*earthworks*" and the Plan defined term "*ancillary rural earthworks*" and consideration of the NPS "*cultivation*" definition being used for "*ancillary rural earthworks*." I understand that these considerations will be part of future hearings that have yet to occur.
- 3.3 The reporting planner has recommended a new permitted activity of earthworks "*for the purposes of gardening, cultivation or disturbance of land for the installation of fence posts*". These are the exclusions from the NPS definition of "*Earthworks*", however they include a defined NPS term "*cultivation*."
- 3.4 HNZPT reserves its position with regard the proposal of a permitted level of earthworks until the further discussion has taken place at the relevant hearings regarding the term "*cultivation*" and its place in the Plan. I acknowledge that some earthworks could occur as a permitted activity, however want to be clear on what types of works this could be. Should the permitted earthworks refer to invasive activities such as forestry I consider it would be appropriate that such invasive works were assessed in the restrictive discretionary activity context, where a management strategy or similar could be

developed to ensure avoidance of these important sites and address ongoing matters such as maintenance in the instance of forestry.

### **Mapping of sites**

- 3.5 With regard the specific recommendation<sup>1</sup> to extend the mapping of ss60 and ss63 and to amend the related schedule-Maori Areas of Significance -Chapter 30-Schedule 30.4, I note that the recommendation of the revised sites shown in blue<sup>2</sup>, does not include Turangawaewae House, which has been included as part of the amended wording in the schedule. I seek that the mapping is further revised to include Turangawaewae House to ensure consistency between the mapping and schedule text. This would assist with clarity for administration purposes.
- 3.6 With regard the other HNZPT wāhi tapu, wāhi tapu area and wāhi tūpuna sites within the Waikato district, these are comprehensively and accurately mapped through consultation with iwi and thorough historical and cultural research. The Plan maps do not reflect the current extent of the listings and HNZPT continues to seek that the planning maps be updated to accurately reflect these extents. This would provide certainty for plan users and allow Waikato District Council to give effect to section 74 of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) in giving effect to the recommendations of the Māori Heritage Council on these sites.
- 3.7 HNZPT continues to seek an amendment to the rules such that the HNZPT listed sites are provided with a non-complying activity status for the destruction of these sites.
- 3.8 Other sites of significance to Māori in the Plan could also be re-examined in the future to ensure that all of the cultural values that they are scheduled for (beyond the archaeological values) are adequately reflected in the planning maps. The risk of starting with archaeological sites as a basis for the sites of significance overlay is that the focus of mapping can become too attached to the tangible archaeological remains rather than the broader cultural values in the wider landscape which should also be scheduled and accurately mapped to give effect to section 6(e) of the Resource Management Act 1991 (RMA).
- 3.9 The archaeological authority process which takes place under the HNZPTA in terms of regulating effects on archaeology does not protect cultural values inherent in the wider landscape. The RMA does this, so ensuring that planning maps reflect all extents of the sites of significance, ensures that the cultural considerations will be addressed during any consenting processes.

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<sup>1</sup> Discussion at para 42 of the Rebuttal Report.

<sup>2</sup> Figure 3 of the Rebuttal Report.

## Advice note

3.10 I do not accept the response of the reporting planner<sup>3</sup> with regard the additions being sought to the advice note. HNZPT staff are aware of a consistent issue with those administering District Plan rules where the focus remains on the subject site only, when considering what recorded archaeological sites are “in proximity” and their possible impacts such as extending from an adjacent site into the subject site. I continue to seek the **additional** wording, (it’s location in the paragraph amended for improved clarity), sought in relation to submission points 559.237 and 559.238:

*“The Maaori Sites and Areas of Significance are also recorded archaeological sites and may also contain unrecorded archaeological sites. 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, ~~including on adjacent properties to~~ these sites **including sites on adjacent properties** 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.”*

## 4. Conclusions

- 4.1 The RMA requires that the protection of the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu and other taonga as a Matter of National Importance should be *recognised and provided for* as a Matter of National Importance (Section 6 (e) together with Historic Heritage (Section 6 (f)). As subdivision, use and development have the potential to significantly detract from Māori heritage and historic heritage, it is important that the Plan limit the potential for adverse effects to occur.
- 4.2 I seek that the amendments as sought by HNZPT in their submission points and further submission, as discussed in HNZPT evidence and this further response, be retained at the time of decision making.



**Carolyn McAlley**

For Heritage New Zealand Pouhere Taonga

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<sup>3</sup> Discussion at para 46 of the Rebuttal Report