

BEFORE THE TE PAI O POUTINI PLAN HEARINGS PANEL

UNDER **the Resource Management Act 1991**

AND

IN THE MATTER OF **Proposed Te Pai o Poutini Plan –
Historic Heritage**

**STATEMENT OF EVIDENCE OF ARLENE RUTH BAIRD
ON BEHALF OF HERITAGE NEW ZEALAND POUHERE TAONGA**

Planning

Dated 8 November 2023

1.0 INTRODUCTION

- 1.1 My full name is Arlene Ruth Baird.
- 1.2 I hold a Bachelor of Arts Degree (BA Hons) in Planning and a post graduate Bachelor of Town Planning degree (BTP) from the University West of England, and a post graduate certificate in Heritage Conservation (PGCert) from University College Dublin.
- 1.3 I am the Acting Area Manager Canterbury/West Coast for Heritage New Zealand Pouhere Taonga (HNZPT) where I am responsible for the delivery of heritage advice within the Canterbury/West Coast region. I have held this position since April 2023. Prior to this I was Heritage Advisor, Planning for HNZPT.
- 1.4 I have over 20 years' experience working in the heritage sector, initially in the UK where I specialised in the restoration and adaptive reuse of historic buildings, then in New Zealand where, prior to my roles for HNZPT, I provided extensive heritage planning and consultancy work for individuals, businesses and local authorities. I am an associate member of the New Zealand Planning Institute (NZPI) and an affiliate member of the International Council of Monuments and Sites (ICOMOS) New Zealand.
- 1.5 I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 (the Code). I have complied with the Code in this evidence. I have not knowingly omitted to consider material facts known to me that might alter or detract from the opinions I express.

2.0 EXECUTIVE SUMMARY

- 2.1 Prior to notification of the Proposed Te Tai o Poutini Plan (TTPP), HNZPT provided extensive heritage guidance and support to the TTPP team throughout the drafting stage, including the provision of information and assessments for heritage items, and attendance at community meetings.
- 2.2 HNZPT lodged a submission on the TTPP on 1 October 2022 and a further submission on 13 July 2023. I was involved in the preparation of each of these submissions.
- 2.3 On 25 September 2023 HNZPT staff attended a pre-hearing meeting with the TTPP team and their heritage consultant, Dr. Ann McEwan, in which submission points were discussed at length (pre-hearing meeting). I attended that meeting. Many of the issues discussed are reflected in the S42A report.
- 2.4 HNZPT is supportive of many aspects of the TTPP. The submissions lodged relate to areas of the TTPP where a strengthening of the proposed provisions would

result in better outcomes in the management and protection of historic heritage. In particular, the submission opposed the proposed status of activities such as demolition and relocation.

- 2.5 I agree with the majority of the S42A report writer's recommendations, however in order to recognise and provide for the protection of historic heritage as a matter of national importance, in my opinion there are some amendments that must be made.
- 2.6 In particular, I remain of the view that there should be a descending activity status for demolition, relocation and repositioning as follows; demolition being a non-complying activity, relocation being discretionary, and repositioning being restricted discretionary.
- 2.7 Also of particular importance, in my opinion, is the submission point recommending that heritage assessments must be completed for all historic heritage items included in Schedule One.

3.0 SCOPE OF EVIDENCE

- 3.1 The scope of my evidence addresses the following matters:
- a) HNZPT and its role in advocating for the protection of historic heritage
 - b) West Coast heritage
 - c) Submission points
 - Understanding archaeology
 - NZAA sites
 - Date stamping
 - Activity status
 - Rule HH-R6
 - Schedule 1A – Historic Heritage Items
- 3.2 In preparing this evidence I have read the relevant submissions, further submissions, and the S42A reports prepared by Council staff and consultants. These reports recommend the acceptance of a number of the more substantial changes that HNZPT requested in their submission. My evidence therefore mainly addresses the remaining topics which are mostly minor in scope. I have not included section 32AA analysis for the minor changes.

4.0 THE ROLE OF HERITAGE NEW ZEALAND POUHERE TAONGA

- 4.1 HNZPT is an autonomous Crown entity with statutory responsibility under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) for the

identification, protection, preservation, and conservation of New Zealand's historic and cultural heritage.

4.2 HNZPT prepares and maintains the New Zealand Heritage List / Rārangī Kōrero (the List), which is primarily an identification and recognition tool for New Zealand's significant and valued historical and cultural heritage places. The purposes of the List are:

- a) to inform members of the public about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas;
- b) to notify the owners of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas, as needed, for the purposes of the HNZPTA; and
- c) to be a source of information about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas for the purposes of the Resource Management Act 1991 (RMA).

4.3 Inclusion on the List does not offer any form of protection, so statutory protection of historic heritage relies on provisions in RMA planning documents. The protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance, as set out in section 6 of the RMA. As such, HNZPT advocates for all entries on the List to be protected through scheduling within district plans where appropriate.

4.4 The HNZPTA provides a process to regulate activities that may affect archaeological sites, defined as any place associated with human activity prior to 1900 that through investigation by archaeological method may provide evidence on the history of New Zealand. It is an offence under section 87 of the HNZPTA to modify or destroy an archaeological site without an authority from HNZPT irrespective of whether the works are permitted, or a consent has been issued under the RMA.

5.0 WEST COAST HERITAGE

5.1 Te Tai Poutini, West Coast, is known for its incredible natural beauty and its rich historic and cultural heritage. Mana whenua connection with the land goes back over many generations and is told through numerous archaeological sites and sites of significance to Māori. More recent history is reflected in the goldfields, coal mining and the land and properties that were developed by European or Chinese settlers.

5.2 There are many areas and sites of historic significance which are important to the community, providing both identity and significant amenity values as well as encouraging intergenerational connection. There are 112 historic places

currently entered on the List across the three districts of Buller, Westland and Grey.

- 5.3 These heritage sites tell the story of our past and contribute to the unique history of this region. The identification and protection of these important historic heritage places can enhance the value and appreciation of this region to those who live and work there as well as to those who visit. Conversely, inappropriate subdivision, use and development can cause irreversible adverse effects on the Coast's significant historic items.

SUBMISSION POINTS

6.0 GENERAL COMMENT

- 6.1 The Historic Heritage chapter of the TTPP identifies buildings, structures and items of particular historic heritage value to the district and seeks to protect these for the benefit of current and future generations.
- 6.2 The HNZPT submission recognises the key changes from the three Operative District Plans, including strengthening objectives and policies to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development. These, and their associated rules, generally provide what, in my view, is an appropriate balance between enabling appropriate activities, whilst strengthening the requirements for activities that may have potential to adversely affect heritage values.
- 6.3 My evidence will concentrate on the HNZPT submission points that the S42A report has recommended be rejected, or only accepted in part. I will also touch on some HNZPT submission points that the S42A report recommend accepting and which I consider to be a significant departure from notified provisions.

7.0 UNDERSTANDING ARCHAEOLOGY (submission points 140.002, 003, 015, 016, 017 and 025)

- 7.1 HNZPT made a number of submission points relating to the better understanding of archaeology, including the distinction between 'site' and 'archaeological site' (submission points 140.002, 003, 016, 017 and 025) and some clarification within the overview (submission point 140.015). Many people do not understand exactly what an archaeological site is or what their responsibilities may be in relation to activities that may affect an archaeological site, so these submissions sought clarity and guidance for the Plan-user.
- 7.2 The definition of historic heritage in the RMA specifically includes archaeological sites. Therefore, in order to give effect to Part 2 of the RMA, the TTPP must manage any adverse effects on historic heritage, including

archaeology, that arise from the use of land. In my view, explanatory definitions, advice notes and overviews are highly beneficial in assisting owners to better understand their obligations in relation to archaeological sites.

7.3 I therefore welcome the S42A recommendation to accept HNZPT's submission points regarding clear definitions and advisory notes regarding archaeology.

8.0 SITES RECORDED IN THE NZAA SITE RECORDING SCHEME (ArchSite) (submission point 140.023)

8.1 The HNZPT submission supported the principle of policy HH-P9 but sought a commitment to undertake a programme to accurately map *all* sites recorded in ArchSite, rather than just those of Māori origin (submission point 140.023).

8.2 However, having considered the points raised by the TTPP team at the pre-hearing meeting and reiterated in the S42A report, I acknowledge that the resources of the West Coast Councils are severely constrained and that such a task would be beyond their capabilities at this point in time. I also note that the recommended additional method HH-M2 will provide a clear pathway for how additional sites, including archaeological sites, could be included in the Plan in the future.

8.3 I therefore agree with the S42A author's recommendation.

9.0 DATE STAMPING (submission point 140.024)

9.1 The ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value 2010 (ICOMOS NZ Charter) provides a set of principles to guide the conservation of places of cultural heritage value in New Zealand.

9.2 The ICOMOS NZ Charter advises that where it is necessary to employ new materials, they should be distinguishable from the original structure. HNZPT submitted that the wording of rule HH-R1 may not make this clear and may not always result in distinguishable new work. HNZPT therefore requested a sub-clause requiring that where materials are not clearly identifiable as new, they should be date stamped.

9.3 Council has considered and rejected this recommendation, concluding that it is not standard practice for district plan heritage provisions and would place an unreasonable burden on the owners of heritage items.

9.4 In my view, date stamping is a simple and effective measure that does not place a considerable burden on owners. However, I do understand and appreciate the Council's concerns in terms of monitoring and enforcement.

9.5 I therefore agree with the S42A recommendation, noting that where necessary, HNZPT can advocate for date stamping through consultation on individual cases.

10.0 ACTIVITY STATUS

10.1 HNZPT submitted that the status levels afforded to various activities within the TTPP should be strengthened in order to ensure adequate protection for historic heritage in the region. A successful rule structure must strike a balance between providing less stringency for those activities which provide for building safety, repair and maintenance whilst also ensuring control over those activities which have the potential to impact on the significance of heritage items.

Relocation and Repositioning (submission points 140.026 and 029)

10.2 Section 10 of the ICOMOS NZ Charter states:¹

the on-going association of a structure or feature of heritage value with its location, site, curtilage and setting is essential to its authenticity and integrity. Therefore, the relocation of a heritage item from its original setting should be avoided.

.....

In exceptional circumstances, a structure of cultural heritage value may be relocated if its current site is in imminent danger, and if all other means of retaining the structure in its current location have been exhausted. In this event, the new location should provide a setting compatible with the cultural heritage value of the structure.

10.3 In my view, the proposed status of relocation or repositioning of a historic heritage item as a controlled activity is not appropriate. Controlled activity status does not provide sufficient protection, nor does it support the principles set out in the ICOMOS NZ Charter, that relocation is a last resort.

10.4 Objective HH-O4 states that its aim is to protect historic heritage by restricting relocation, repositioning, internal and external alterations and additions to heritage items and not allowing demolition and destruction. In relation to relocation and repositioning, this outcome is achieved through Policy HH-P6. In my view, a rule with controlled activity status does not implement this Policy or Objective.

10.5 The S42A report acknowledged that the notified approach to relocation and repositioning does not afford sufficient protection and could lead to poor decisions². I note that this issue was also of concern to West Coast heritage

¹ ICOMOS NZ Charter at 4.

² Te Tai o Poutini Plan S42A Officer's Report Historic Heritage at [124].

groups during the drafting of the TTPP and was also a topic of discussion during the pre-hearing meeting.

- 10.6 The S42A report now recommends an amendment to the proposed activity status, with relocation and repositioning under HH-R4 being a restricted discretionary activity and under HH-R7 (where compliance with H4 is not achieved) as a discretionary activity.
- 10.7 I consider there are two issues here. Firstly, I remain of the view that repositioning (within the site) and relocation (beyond the site) are quite different activities with varying levels of potential impact on heritage values and as such should not be grouped together.
- 10.8 The act of repositioning within a site can retain much of the setting and contextual values of a heritage item, which are inevitably lost through relocation to another site. Repositioning is therefore acceptable in many more occasions than relocation. In my opinion, repositioning and relocation should be considered under two separate rules.
- 10.9 Secondly, in the consideration of activity status, the HNZPT submission requested that repositioning be a discretionary activity and that relocation be a non-complying activity. This was discussed at length at the pre-hearing meeting. In that meeting, and in her Response to Submissions document³, Dr. McEwan expressed the opinion that the activity status should be descending based upon degree of potential impact, with demolition being a non-complying activity, relocation being discretionary, and repositioning being restricted discretionary.
- 10.10 Notwithstanding that this is not as protective as that proposed within the HNZPT submission, I do agree with Dr. McEwan's approach, based on the fact that relocation is not as 'inappropriate' as demolition. I would therefore be satisfied with those activity status levels, and further, I consider that the cascading activity status approach would implement the Objectives and Policies for the Historic Heritage Chapter.
- 10.11 However, the S42A report does not follow Dr. McEwan's advice; instead, it retains one rule for both relocation and repositioning⁴, although increasing the status to restricted discretionary for rule HH-R4 and to discretionary for HH-R7.
- 10.12 I therefore disagree with the S42A recommendation and agree with Dr. McEwan's recommendation.

³ Response to Submissions, including Potential Additional Items and Areas, Dr A McEwan at p2.

⁴ Te Tai o Poutini Plan S42A Officer's Report Historic Heritage at [133].

Demolition and destruction (submission point 140.031)

- 10.13 The HNZPT submission requested the demolition and destruction of a heritage item to be considered as a non-complying activity. Section 6(f) the RMA identifies the protection of historic heritage as a matter of national importance. The impact of demolition of a heritage item is irreversible and as more heritage buildings are lost, we increasingly lose touch with the history and origins of our surroundings.
- 10.14 This has been a major issue throughout the plan development process, from the pre-plan preparation stage, drafting, and now notification, and HNZPT has strongly advocated for the non-complying status throughout. In my opinion, applying the most restrictive activity status, barring prohibited, is the only method to adequately protect the tangible remains of the West Coast's rich and unique history. This was also discussed at the pre-hearing meeting.
- 10.15 Policy HH-P7 provides that demolition and destruction are only allowed if certain requirements are met. In my opinion the language used in this Policy is very directive and clear "will not be allowed" which is reflective of how important it is to provide protection to historic heritage whilst at the same time recognising there are some scenarios where demolition or destruction may be provided for through the consenting route.
- 10.16 The S42A report addresses the various views and submissions on this issue and concludes that the proposed discretionary activity status is insufficiently protective⁵. It recommends the status be amended to a non-complying activity.
- 10.17 I strongly agree with this recommendation as, in my view, this will implement the policy framework of TPPP and give effect to Part 2 of the RMA providing protection to the significant historic heritage values of the West Coast.
- 10.18 I therefore agree with the S42A recommendation.

11.0 RULE HH-R6 (submission point 140.027)

- 11.1 HNZPT submitted that HH-R6 be split into two rules. The reason being that 'repairs and maintenance' of a heritage building are quite different activities from 'additions and alterations' and as such grouping them together has the potential to be confusing for Plan users.
- 11.2 The S42A report disagrees with this, stating that having these matters in one rule provides for administrative efficiency. I still consider that having such different activities under one rule is not standard practice and is not user-

⁵ Te Tai o Poutini Plan S42A Officer's Report Historic Heritage at [155, 156].

friendly, however I also note that this does not in the end have a direct impact on the heritage outcome.

11.3 I therefore accept the justification for the S42A recommendation.

12.0 SCHEDULE 1A – HISTORIC HERITAGE ITEMS AND AREAS

Heritage assessments (submission point 140.044)

12.1 HNZPT considers district plan heritage schedules to be one of the most significant tools for protection of heritage items and actively advocates for these schedules to be both comprehensive and defensible. Throughout the plan preparation stage, HNZPT actively encouraged the preparation of assessments to justify the inclusion of items in the schedule.

12.2 This is both for the benefit of the owner to understand why their property is scheduled and what important features must be retained, and also for the benefit of the processing planner to understand more clearly how proposals must mitigate adverse impacts on the item's heritage values. This issue was discussed at the pre-hearing meeting.

12.3 The West Coast Regional Policy Statement 2020 (RPS) requires that the regional and district plans assess and identify significant historic heritage according to the criteria set out in the RPS.⁶ The RPS also includes Policy 5 that requires promotion of the sustainable management of historic heritage, through, among other things, *identification of significant values associated with historic heritage*.⁷ The RMA requires that the RPS is given effect to. This will not be achieved until assessments are completed.

12.4 The S42A report states that the TTPP Committee has now engaged Dr. McEwan to undertake assessments for all of the heritage items included on this schedule. I understand that due to financial constraints, this is likely to occur over several years, but I acknowledge that an additional proposed Method, provides sufficient confidence that this will happen⁸.

12.5 I therefore agree with the S42A recommendation in order to appropriately assess the historic heritage values and therefore give effect to the RPS.

Seddon House Site (submission point 140.072)

12.6 The HNZPT submission requested the inclusion of the Seddon House Site in Schedule 1A. This was discussed at the pre-hearing meeting and is detailed in the S42A report. Dr. McEwan assessed the site and concluded that there is

⁶ West Coast Regional Policy Statement 2020 at Part 4, Method 3 at p17.

⁷ Ibid at Part 5, Policy 5 at p15.

⁸ Te Tai o Poutini Plan S42A Officer's Report Historic Heritage at [179].

insufficient built heritage remaining to justify its inclusion in Schedule 1A, and that it is already a historic reserve owned, and therefore protected by, HNZPT.

12.7 The S42A report therefore recommends that it is not included in Schedule 1A, but instead is included in Schedule 1B – schedule of Archaeological Sites. In my view, as the provisions of the historic heritage chapter will still apply to the Seddon House Site, this will provide an appropriate level of protection for the significant heritage values of the Seddon House Site.

12.8 I therefore agree with the S42A recommendation.

Arlene Baird
8 November 2023