HERITAGE NEW ZEALAND
POUHERE TAONGA

PROPOSED THAMES COROMANDEL DISTRICT PLAN

SUBMISSION BY HERITAGE NEW ZEALAND POUHERE TAONGA

RESPONSE OF DUNCAN MCKENZIE TO COUNCIL PLANNER'S S 42A REPORT

05 MARCH 2015

Introduction

1. My name is Duncan McKenzie. I am the Heritage Advisor Planning for the Northern Regional Office of Heritage New Zealand. I am a qualified planner with a total of almost 40 years of planning experience, in local and central government and as a planning consultant. I have been in my present position for almost three years, and was responsible for preparing the submission on behalf of Heritage New Zealand to the proposed Thames Coromandel District Plan.
2. On 2 October 2014 I presented evidence on behalf of Heritage New Zealand to the Hearings Panel on matters concerning historic heritage objectives, policies and rules. We were invited back to the present hearing for two purposes:
    a. To present evidence in respect of the historic heritage schedules (which my colleague Robin Byron will do); and
    b. To provide detailed comment on the Council Officer's section 42A report in respect of objectives, policies and rules where this would be helpful to the Panel.
3. This statement is my response to the s 42A report (which is dated 127 September 2014), and in particular the discussion and recommendations contained in Appendix A of that report. The response concentrates on parts of Appendix A where the recommendation is to reject the submission. This response does not introduce issues that were not covered in my original evidence statement, but does review parts of that statement.
4. I have also read the s 42A report dated 3 February 2015 and confirm that it does not raise any further significant issues that I have not addressed elsewhere.

DEFINITIONS AND ASSOCIATED ISSUES

Demolition and partial demolition

5. Heritage NZ sought a change to the definitions in order to distinguish between total and partial demolition. The existing definition would allow the removal of significant heritage elements under the guise of an addition or alteration, which would generally be a controlled activity. Our submission was aimed at providing a category of activity somewhere between total demolition and additions and alterations, where greater discretion would be available than that provided by controlled activity status.

6. I am concerned that this quite significant issue (referred to in para 12 of the s 42A report) has not been properly addressed. I appreciate that the split-definition solution proposed by Heritage NZ could be improved, but it does address the major concern which does not appear to have been acknowledged in the s 42A report.

7. A possible approach is to define partial demolition by the percentages of elevation area destroyed, with a lower threshold for facades.

The ICOMOS Charter

8. Heritage NZ sought more explicit reference to the ICOMOS Charter as a guide to acceptable interventions. The s 42A report noted (para 16)that the ICOMOS Charter is not a referenced document because of the difficulties inherent in referencing such documents) and therefore basing planning rules on it would be inappropriate.

9. I can see no impediment to referring to the Charter both at a policy level and as an indication of how council discretion may be exercised, without actually referencing the document. In my view, the ICOMOS Charter will be useful to applicants and to those assessing applications, and assessment criteria level, and the Plan is an appropriate place to draw attention to its existence.

Curtilage (para 10)

10. A good and workable definition of "curtilage" is important, as this determines the extent of protection that a scheduled item has. The best means is to define this by a line on a map. In the case of scheduled archaeological sites, this line would ideally have been established as a part of the investigation that recommended the places for scheduling. In the case of the Tahanga Quarries, Heritage NZ's submission noted that its list entry report defines an extent.

11. However, for the cases where research has not yet established the curtilage, a text definition appears necessary. A definition based on lot boundaries would suffice for most buildings on small sites within the towns. In a rural situation, lot boundaries may be excessive. In certain circumstances, for example an archaeological site identified as a point, the area meriting

protection could extend to an adjoining lot. In those circumstances, a curtilage based on a radius may be more appropriate.

BUILDING SAFETY AND EARTHQUAKE PRONENESS

12. Heritage NZ in its submission did refer to issues about the status of works to heritage buildings that may be carried out to improve earthquake strength, protect against fire or improve access. Some examples of Plan provisions were provided. Para 57 of the s 42A report briefly mentions this submission but does not appear to reach any conclusions.

13. I can understand a reluctance to explicitly address these issues – there is considerable uncertainty about what regulation Central Government may impose, and a perception perhaps that Thames-Coromandel's earthquake risk is lower than in other parts of the country. The examples offered in the Heritage NZ submission would be more relevant in more seismically-active parts of the country – and it is acknowledged that these guidelines are works in progress.

14. Nevertheless, the Council will need to address these issues some time in the future, especially where making a building safe may involve significant intervention or even demolition, which may conflict with heritage objectives.

HISTORIC HERITAGE AREAS (para 106 and 149)

15. It is appreciated that historic heritage areas are intended to identify, and provide some form of protection for, areas that could be described as having "historic character" but where individual places or groups of places do not merit scheduling as historic heritage items.

16. The Plan's main emphasis seems to be to ensure additions, alterations and new developments have regard to established "historic character". However these controls fall short of regulating the demolition or removal of existing buildings, which is a permitted activity.

17. Obviously not all buildings within a historic heritage area merit retention on heritage grounds. Nevertheless there are some buildings within historic heritage areas that make a contribution to the character of that area and may form the standard against which new development is measured. The Heritage NZ submission calls these "contributory buildings".

18. As an alternative to the up-front identification of contributory buildings (which while providing more certainty but would probably require a variation of a plan change), our submission suggested restricted discretionary activity status where the assessment criterion is "the contribution the place makes to the character of the Historic Heritage Area".

CATEGORIES OF HISTORIC HERITAGE ITEMS

19. The Heritage NZ submission sought the categorisation of scheduled items into categories A and B. The s 42A report (para 58 and 131) does not view this with favour, citing "subjectivity" in making the determination.

20. In my opinion, some form of categorisation should be carried out. It is required by the Waikato Regional Policy Statement, (which seeks separate identification of heritage that is of regional significance, and that which is of more local significance). Our submission also noted the Heritage NZ Guidelines (which are also referred to as applicable in the Regional policy Statement).

21. In general Category A status is reserved for places that are of more than local (i.e. regional) significance. In Thames-Coromandel's case, much of the mining-related heritage would be in this category (in fact in some cases being of national significance). Such significance is capable of being attributed by a suitably-qualified heritage expert, and in that sense is not "subjective" as claimed in the s 42A report.

22. It is appreciated that currently-scheduled items have not been through the second phase of categorisation. However, as sought in the heritage NZ submission, items that are listed as Category 1 on the Heritage NZ List should be considered in the first instance for Category A.

INCENTIVES

23. The submission made the case for incentives for the protection of historic heritage, and that was canvassed extensively in the evidence presented. The s 42A report suggests this be addressed in the context of the ongoing Heritage Strategy.

24. Direct financial incentives are accepted as being generally outside the District Plan, and may be implemented through grant funds, rates relief and remission of consent fees. While District Plan provisions are not necessarily the appropriate place to administer such incentives, they could be referred to as methods for implementing policy).'

25. However my evidence did refer to a number of possible incentives, such as relaxed development controls, and the transfer of development rights and development bonus provisions where heritage is protected, which in my opinion could be considered for inclusion in the District Plan.

CONFLATION OF ARCHAEOLOGICAL VALUES AND MAORI CULTURAL VALUES

26. I accept the point of the s 42A report (para 57) that the plan provisions for archaeological values and Maori cultural values are quite similar. However inherently there is a tension between archaeological values (which are largely based on safeguarding the potential of physical archaeological evidence, on scientific investigation and analysis, to provide information about

the way we lived), and Maori cultural values (which are more spiritual, possibly with fewer physical manifestations, and more concerned with the retention of those values as they are.

27. The differences become apparent not just in respect of the values being protected, but also in respect of the professional advice that might be required, and the need for consultation.

28. While the s 42A report partially recognises the differences between the two sets of values, in my opinion the changes recommended do not go far enough.

ACCIDENTAL DISCOVERY PROTOCOLS (Para 27 and 111)

29. Heritage NZ continues to hold the view that an "accidental discovery protocol" clause should not be seen as a substitute for a proper archaeological assessment where the need for that is indicated. ADPs are only appropriate where it has been determined that there is a low likelihood of a particular development encountering an archaeological site. (That determination may have to be based on an archaeological assessment or a scan of the NZAA Database). When there is a reasonable likelihood of encountering archaeological sites, then Heritage NZ would advocate for an archaeological assessment and associated application for an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.

30. Where it has been determined that an ADP is the appropriate response, it is important that it is in a form that requires the appropriate response (i.e. stop work, contact Heritage NZ, and involve iwi where appropriate). The ADP should not seek responses that would lead landowners to not meet their statutory obligations under the HNZPTA.

31. However it is re-iterated that an ADP is not an adequate substitute, in our view, to proper assessment where there is a reasonable likelihood of a development encountering archaeological sites.

COSTS OF ARCHAEOLOGICAL ASSESSMENT

32. The Hearings Panel in October sought our views on who should bear the cost of archaeological assessment. My opinions on this are:

    - When provided as part of an application for resource consent, like any other aspect of an assessment of effects on the environment, I would expect the costs will generally be borne by the applicant;
    - If the assessment is in fact required under the HNZPTA, likewise the cost of the assessment is expected to be borne by the applicant;

- It is possible for an assessment to be used for both resource consent and archaeological authority purposes, provided it contains the full range of information required by both the Plan and the HNZPTA.

33. I note that the s 42A reporting planner (in para 33) agrees with my analysis of where these costs should lie (at least in respect of a resource consent application).

Duncan McKenzie

Heritage Advisor Planning

Northern Regional Office

Heritage New Zealand Pouhere Taonga